

THE POLITICAL RÔLE OF THE MONARCHY IN SCOTLAND

1249 - 1329

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This thesis has been composed by myself  
and is the product of my own work.

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## ABSTRACT OF THESIS

The personal reign of Alexander III of Scotland saw a dramatic reversal of the weak monarchy, divided community and external interference which had characterised his minority. Alexander III's policies raised the status of the monarchy in the realm and united the community, which was by that time developing a sense of nationhood.

This unity was demonstrated when, on Alexander III's death, guardians were elected to rule in place of his grand-daughter, Margaret. These guardians attempted strongly to defend the threatened independence of the realm until Margaret's death.

The ensuing succession crisis gave Edward I of England the opportunity to assert his claim to overlordship of Scotland, and it was in his court that the rival claims to the throne were contested, resulting in the declaration of John Balliol as King of Scots. The records of the case reveal conflicting contemporary attitudes to the succession system and to the status of the king and kingdom.

Edward I's continued insistence on King John's vassal status, however, created a tripartite conflict involving King John, the Scottish community and Edward I, which led to the Scots forcing Balliol into rebellion against Edward I, who deposed him and subjected Scotland to a military occupation.

Uprisings were organised in Scotland to re-establish native government under a series of guardianships which chose to govern in the name of King John. This period saw a notable growth in the

self-awareness of the Scottish community, and further development of constitutional theories.

Two years after the period of guardianship had ended with a re-submission to Edward I, Robert Bruce led a further rebellion, and, making use of the strength of both monarchy and community which had developed since 1249, he established himself on the throne, secured the independence of the kingdom and recreated, in some measure, the "Golden Age" of Alexander III.

By 1329 the outward appearance of continuity with the time of Alexander III belies the strong undercurrent of development which had affected Scotland in the intervening period. The concept of monarchy, in particular, had developed as a symbol of national identity, upon which the Scots' struggle for independence had largely rested.

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2:	The Comyns in the Thirteenth and Early Fourteenth Centuries	facing page 112

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# LIST OF ABBREVIATIONS

The abbreviations used in the notes and bibliography are, for the most part, taken from the List of Abbreviated Titles of the Printed Sources of Scottish History to 1560, printed as a supplement to Scottish Historical Review, October 1963.

Divergences from that list, or additions to it, are noted below, or are self-explanatory. For full publication details see Bibliography.

- |                             |  |
|-----------------------------|--|
| Aquinas, <u>De Regimine</u> | - Thomas Aquinas: <u>De Regimine Principum</u> (from <u>Selected Political Writings</u> , ed. d'Entrèves). |
| Barbour, <u>Bruce</u>       | - <u>Barbour's Bruce</u> (ed. McDiarmid and Stevenson).  |
| Barrow, <u>Kingdom</u>      | - G.W.S. Barrow: <u>The Kingdom of the Scots</u> .   |
| Barrow, <u>Robert Bruce</u> | - G.W.S. Barrow: <u>Robert Bruce and the Community of the Realm of Scotland</u> .                          |
| <u>B.I.H.R.</u>             | - <u>Bulletin of the Institute of Historical Research</u> .  |
| <u>Cal. Misc. Inq.</u>      | - <u>Calendar of Miscellaneous Inquisitions</u> .  |
| <u>Cal. Rot. Pat.</u>       | - <u>Calendarium Rotulorum Patentium...</u>  |
| <u>Chron. Guisborough</u>   | - <u>The Chronicle of Walter of Guisborough....</u>  |
| <u>Chron. Langtoft</u>      | - <u>The Chronicle of Pierre de Langtoft</u> .   |
| <u>Chron. Meaux</u>         | - <u>Chronica Monasterii de Melsa</u> .  |
| <u>Chron. Walsingham</u>    | - Thomas Walsingham: <u>Historia Anglicana</u> .   |
| <u>Chronica Majora</u>      | - Matthew Paris: <u>Chronica Majora</u> .  |
| Dante, <u>Monarchia</u>     | - Dante: <u>Monarchy and Three Political Letters</u> (ed. Nicholl).  |

- Duncan, Acta - A.A.M. Duncan: 'The Acta of Robert I' in S.H.R. 32.
- Duncan, Early Parliaments - A.A.M. Duncan: 'The Early Parliaments of Scotland', in S.H.R. 45.
- E.H.R. - English Historical Review
- Formulary E - Formulary E: Scottish Letters and Brieves, 1286 - 1424.
- Hacon's Saga - The Saga of Hacon and a fragment of the Saga of Magnus.
- Linehan, Spanish Manuscript - P.A. Linehan: 'A Fourteenth-Century History of Anglo-Scottish Relations in a Spanish Manuscript', in B.I.H.R. 48.
- Maddicott, Lancaster - J.R. Maddicott: Thomas of Lancaster, 1307 - 1322.
- Magnus's Saga - See Hacon's Saga, above.
- N.L.S. - National Library of Scotland.
- Palgrave, Antient Kalendars - Palgrave, (ed.): Antient Kalendars and Inventories...
- Parliamentary Writs - The Parliamentary Writs and Writs of Military Summons.
- P.R.O. - Public Record Office.
- Rot. Parl. - Rotuli Parliamentorum.
- S.R.O. - Scottish Record Office.
- Standard-Bearer Case - House of Lords Appeal Cases 1910 (part 9).... Respondent's Additional Documents (numbered seriatim with Appellant's appendix).
- Stones, Documents - E.L.G. Stones, (ed.): Anglo-Scottish Relations, 1174 - 1328: Some Selected Documents.
- Stones and Simpson, Edward I - E.L.G. Stones and G.G. Simpson: Edward I and the Throne of Scotland, 1290 - 1296.

Trans. Royal.  
Hist. Soc.

- Transactions of the Royal Historical Society.

Watt, Dictionary

- D.E.R. Watt: A Dictionary of Scottish Graduates to c.1410.

Watt, Fasti

- D.E.R. Watt: Fasti Ecclesiae Scoticanæ Medii Aevi.

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## INTRODUCTION

The Scottish War of Independence has been the subject of much study, partly as a result of the popular romantic image created by such story-tellers as John Barbour and Blind Hary. Amongst the many publications dealing with this period are a few which have rightly earned the reputation of seminal works, and which have greatly increased our knowledge and understanding of this difficult, but crucial, stage in Scotland's history.

However, there is a gap in the historiography of the period: no work has as yet given full treatment to the rôle of monarchy in the events of the late thirteenth and early fourteenth centuries. Most have centred either upon the political events themselves, or upon other aspects of the period, such as the personalities involved, or the part played by specific sections of the community. It is my contention that the idea of monarchy and the rôle ascribed to the monarchy by the Scottish community were of vital importance in this period, and have not yet been the object of adequate study.

This work is therefore, quite unashamedly, a 'monarcho-centric' study of the first war of independence, intended to explore the development of the concept of monarchy in Scotland throughout the period, and to assess the influence of that concept and its practical application on the course of events and on the consequent development of Scottish identity and society. Other aspects of Scottish society in the period, perhaps most saliently the church, are included only to the extent to which they directly affect the realm and its monarchy. This is a work concerned primarily with matters political,

and is not intended to be an exploration of theories. Political theory is, of course, involved, but the works of philosophers and theorists are studied only where they make a direct contribution in clarifying conceptual development. For the present purpose political theory is best studied from the contemporary documentary record evidence. It is through what men wrote that one can discover what was their attitude to themselves. The thesis is thus principally based on the standard primary sources normally used for study of the period. Printed editions have frequently been checked against their manuscript originals. Only where omission or variance has been found of such significance as to alter interpretation has reference been made to original rather than more readily available printed versions.

The organisation of the thesis is primarily chronological. In an attempt to retain a useful element of thematicism, however, the events of 1286 - 1291 are dealt with only sketchily in their chronological sequence, and find more detailed treatment in the section on guardianship, which is divided under three thematic headings. Similarly, the reign of Robert I is treated, to some extent, thematically. The war, as far as is practical, is considered apart from the internal politics and administration of the realm. It is hoped that any unwieldy disruption of chronological sequence is outweighed by the advantage of the partially thematic approach.

Finally, the chronological confines of the work have been dictated partly by the limitations of time and space. The period from 1249 to 1329 is, however, acceptable for the purpose in hand. Too many studies omit the reign of Alexander III which, as a fine example of what 'good', strong monarchy was deemed to be, is



essential for an understanding of the calamity which befell Scotland after 1286. To end with the reign of Robert I may seem, in some ways, premature, but is nonetheless logical. It lends the study a fortunate symmetry, the establishment of strong, prosperous rule both foreshadowing and following a time of decline and adversity. Comparison of the situations at the beginning and end make possible an assessment of the effects of the central period. More importantly, to extend the study into the reign of David II would be to enter a new phase of the national struggle; it would also be to enter a new phase in the relationship between the Scottish crown and community, which could only be satisfactorily examined in a work which continued through until, at least, the mid-fifteenth century. The period from 1249 to 1329 displays a cohesion which makes it a satisfactory unit of study: the problems encountered during the reigns of David II and his successors are of different character and must be examined elsewhere.

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CHAPTER ONEALEXANDER III, 1249 - 1286

When King Alexander II of Scotland died on the island of Kerrera on 8 July 1249, the Scottish crown passed, apparently without question, to his son and heir, Alexander. Aged just a little under eight years, this child was inaugurated as Alexander III on 13 July.<sup>1</sup> In the traditional ceremony at Scone the young king was acclaimed by the community of Scots, enthroned on the ancient and symbolic 'stone of destiny', consecrated, invested with a mantle, had his genealogy proclaimed by a Gaelic bard, and the magnates of the kingdom made obeisance to him.<sup>2</sup> It was a ceremony which stressed the changing nature of the Scottish kingship: the 'stone', the largely fabulous genealogical recitation, and the part played by the ancient grouping of the 'Seven Earls'<sup>3</sup>, symbolised the Celtic past, while the homage of the magnates, the consecration by the bishop, and above all the age of the king signified the modern 'Anglo-Norman' elements of the monarchy.

A seal of minority has survived from the early years of Alexander's reign, depicting the king carrying sword and sceptre, and wearing a crown. Symbolising at once the might, authority, justice and Christian leadership which was expected to emanate from the crown, the seal highlights the contrasting nature of the monarchy, when it is remembered that in 1249 the rôle was assigned to an eight-year-old boy. The existence of the 'minority seal' may be taken as a recognition of the dubiety of the king's edict. However, other evidence, such as the full royal style on the seal, and the lack of



any officially appointed guardian, would tend to contradict this idea. More probably, the seal was a practical expression of the governmental situation. Professor Duncan is probably right to suggest that those acts given under it should be either confirmed or repealed after the king came of age.<sup>4</sup>

In his inauguration ceremony Alexander III was given all the theoretical implements of rule. The rites performed at Scone within a week of the death of Alexander II gave his son all the insignia of monarchy and the consent of the community to rule the kingdom. There must, however, have been a realisation among the community that an eight-year-old, whatever his 'right' and theoretical position, could not hope to wield these implements. The power had necessarily to lie in the hands of the community or a section of it. It seems, then, that there was a feeling that authority to rule came from the crown itself, as well as its holder. Had a well-developed theory of 'the crown' existed in Scotland, there would have been little need for the king to be inaugurated so young. Authority apparently still stemmed from the king. That a nascent theory of 'the crown' did exist, however, is shown by the fact that Alexander III's regnal year was dated not from his inauguration, but from the date of his father's death<sup>5</sup>; the authority of the crown never died. Nonetheless, it was obviously felt that royal executive power could only be wielded by or on behalf of an inaugurated king. The concept of 'the crown' and the person of the king had not yet become properly distinct, and the rôle of the community in government had not yet been formalised. These were elements of political theory and practice which were forced into being by circumstances later in the century.



This apparent immaturity in Scottish political theory can be no object of wonder. Little threat had been posed to the stability of the monarchy since the beginning of the twelfth century. The ruling line had, in the main, provided able kings who had established in Scotland a strong personal monarchy, founded upon the right of inheritance by blood, and upon the assent of the community, in accordance with older Celtic practice. No lapses in royal authority had forced exceptional constitutional arrangements on the realm; even Malcolm IV had been able to carry some personal authority, having taken the throne at the relatively mature age of twelve. No crisis had yet affected the country which had forced a notable advance in the theory of 'the crown'. The notion existed, but it was still 'the king' who embodied authority in the mid-thirteenth century.

In 1249, therefore, he who gained control of the king controlled the government of the kingdom. No formal agreement had been reached regarding regency before Alexander II's death, and there is no record of any formal deliberations on the subject by the community thereafter. In effect, then, the faction which could command most support would become supreme. Alan Durward, at the head of a family which had wielded much influence under Alexander II, apparently tried to establish his own supremacy by claiming the right personally to knight Alexander III before his inauguration.<sup>6</sup> Presumably this action, the first conferment of elevated status on the king, would have singled out Durward as the pre-eminent member of the community, who therefore had the right to lead the government in the king's name.<sup>7</sup> Durward's attempt failed, but nonetheless, perhaps by virtue of some deal with the king's mother, Marie de Coucy, he did, in the first instance, gain supremacy.

The administration of the kingdom weathered the establishment of this new regime with a remarkable degree of continuity and stability. The business of government continued unstinted<sup>8</sup>, and although his personal rule can only have been a fiction, the record of the council held in Edinburgh in June 1250 makes it clear that the power in the kingdom was deemed to emanate from the king himself:

"Alexander, by the grace of God king of Scots, to all true men of his whole land, greeting. Know ye that, with the counsel of our magnates, we have given...."<sup>9</sup>

However, the instability of the kingdom, most apparent in the continued friction between the two most powerful baronial factions, the Comyns and the Durwards, resulted in a weakening of this government and the loosening of its grasp on the realm. Disturbance and disorder became rife, and Fordun's description of the situation indicates that the judicial system at least, if not the entire administrative structure, was in a state of extreme disrepair.<sup>10</sup> Lawlessness, corruption, and desecration of the church's properties and rights<sup>11</sup> rendered this the antithesis of good royal rule:

"For he who saw the poor crushed down in those days, the nobles ousted from their inheritance, the drudgery forced upon the citizens, the violence done to churches, might with good reason say, Woe unto the kingdom where the king is a boy!"<sup>12</sup>

It appears that the clergy were particularly unhappy with the situation, and, encouraged by the opposing Comyn faction, they appealed to Henry III of England to attempt to remedy the situation.<sup>13</sup> This he was keen to do, for the weakness of the Scottish government gave him a first-rate opportunity to revive the old claim to English sovereignty over Scotland; the approaches made to the papal curia by the Scots<sup>14</sup>, in search of the rites of unction



and coronation for their king<sup>15</sup>, found no favour with him. The weak Durward régime was forced to curry favour with Henry, and arranged a marriage between Alexander and Henry's daughter Margaret. On Christmas Day 1251, Alexander was knighted by Henry III<sup>16</sup> (an act which, from the English king's point of view, at least, was full of significance), and on the following day the marriage took place at York.<sup>17</sup> One English chronicle relates that, following the ceremony, the English king demanded homage of Alexander both for the lands which he held in England and for his Scottish kingdom.<sup>18</sup> The homage for Scotland was, we are told, refused, and no further discussion took place. Guisborough confirms that homage was done<sup>19</sup>, but the story of the homage demanded for the kingdom must be very dubious. It may be that, as a pure formality, the request was made in order to keep the ancient claim alive, but the lack of any reference to such an important constitutional issue either in the official records or in any other English or Scottish chronicle places extreme doubt on its veracity.

In any event, Henry was to act, in the following years, as if a recognition of supremacy had been given. Acting nominally out of concern for the estate of his daughter and son-in-law, he effected the removal of Alexander III's council - the ruling Durward faction - and procured their replacement with the Comyns and their supporters. It seems that Durward may have been the author of a devious plot to gain the throne for himself<sup>20</sup>, and Henry used this treason to overturn Durward's government<sup>21</sup>: he ousted or forced the resignation of all the main officials of the Scottish household, and appointed two of his own barons<sup>22</sup> to represent his interests in the Scottish

court.<sup>23</sup> Although he dissociated himself, in name at least, from the appointment of a new Scottish royal council, his influence must nevertheless have been great.

The new government, however, soon became even less pleasing to Henry III than the one it had replaced. Either his representatives were powerless, or, as seems more likely, they co-operated with the Scottish magnates, who showed little respect for the interfering English king. His concern for the welfare of his daughter is the most frequently-cited cause of Henry's discontent. Certainly, there is evidence that the conditions in which she and the young king lived were far from 'regal',<sup>24</sup> and Henry III must indeed have felt genuine concern for her wellbeing. This was not, however, the only reason for his action against the Comyn government. When he required military assistance for a campaign in Gascony in 1253, his lieutenants in England demanded that Alexander and his council should attend a meeting at Edinburgh<sup>25</sup> (presumably intended to sanction aid). That the Scottish king attended a meeting in his own kingdom, to which he had been peremptorily summoned by the officials of another king, seems improbable. The expected aid, in any case, was not forthcoming; only the ousted Alan Durward, who had made his peace with Henry III, went with the English magnates to Gascony.<sup>26</sup> Another source of contention was the money levied by the papacy in Scotland to support an English crusade<sup>27</sup>, which the Scots refused to pay.<sup>28</sup>

By the summer of 1255 this situation had become intolerable to Henry. The Scottish government (including his own nominees) was foiling his attempts to have Scotland administered in England's interest<sup>29</sup>, and so, having first found out on which of the Scots he



could depend, in August 1255 he came to the border. On this occasion there was no formal dissociation of Henry III from the replacement of Alexander III's counsellors<sup>30</sup>: "at the instance of" the English king, and with the advice of named Scottish magnates, the Comyn party were removed from office. No place in council would be given to them until they had "atoned" for their offences to both kings. It was further "agreed" between the kings that unless by reason of major trespass, the new council (named) would remain in office for seven years, or for a shorter period as dictated by Henry and Alexander. Further safeguards for the integrity of the Scottish administration were to be the affair of the Scottish king and his council. These arrangements were sealed by an oath sworn by Patrick earl of Dunbar on the soul of King Alexander. A rather weak addendum notes that Henry undertook to return the document containing these provisions to Alexander at the end of the seven years, and that no prejudice to the (unspecified) rights and liberties of Scotland should arise out of the arrangement. This clause is somewhat devalued by the memorandum appended to the document which states that Alexander provided it "by command" of the king of England.<sup>31</sup> A dangerous precedent had been set for the arrangement and supervision of the administration of Scotland by the English king. The king of Scotland, and the authority of his crown, were, at this time, undeniably inferior to those of England.

Henry's actions, of course, constituted exactly the type of intervention which the Scots, under both previous leaderships, had sought to avoid. The refusal of military service and the resistance to previous intervention had been the results of a feeling that the



English king wished to dominate in Scotland, that his wish was without right, and that it should be resisted. In effect, this period saw the community in defence of the kingdom. Admittedly, the defence was divided, and was without organisation: no impression is gained of a unified nation in conflict with an oppressor, but nonetheless, the feeling of national identity, albeit in its infancy, was expressed.<sup>32</sup> It was a feeling which was to have clearer enunciation in 1278, with Alexander's refusal of homage, and which was to spread rapidly after Alexander's death.

However, parchment promises could not ensure Henry III his influence over Scotland. Alexander III's personal authority was as yet fictitious: his title was merely a stepping-stone to power for any who wished and had the opportunity to wield it. By 1257 the ousted Comyn faction were in a position to exert power to force Alexander and the new government to negotiate with them, talks in which Henry III involved himself fully.<sup>33</sup> These talks aimed at ensuring peace in Scotland, but failed, and in October 1257 the Comyns, led by Walter earl of Menteith, seized Alexander and tried to gain control once more.<sup>34</sup> Henry III prepared an invasion force to quell the rebellion<sup>35</sup>, but other affairs diverted his attention, and on this occasion his interference was much more limited.

The Comyns, too, experienced problems. Freed from the power of the Durwards, Alexander III, now aged seventeen, seems to have been more of a force to reckon with, and was no longer prepared to be dictated to by any of the rival parties. In a treaty which the Comyns made with the Welsh, who were rebelling against Henry III<sup>36</sup>, reference is made to the possibility that Alexander might force them

into a truce with Henry III, or that he might be persuaded to join their agreement. This confirms that Alexander refused to be ruled by the Comyns. His actions against the Durwards (even if overstated by the Melrose Chronicle, as Professor Duncan suggests<sup>37</sup>) show that he was equally independent of them. Henry III's political defeat by his own barons<sup>38</sup> left him unable to control events in Scotland, and the resultant settlement of September 1258<sup>39</sup> was one which probably reflected the wishes of Alexander, to which Henry had no option but to accede.

Alexander III had come to terms with both factions, and a new council was appointed which comprised men of both camps. The English king promised to give help and advice to this council.<sup>40</sup> This concession may have been bought by the inclusion of four Durward men in the council<sup>41</sup>, but it seems more likely that Henry wished to retain his influence, which, given his weaker position in 1258, could only be achieved through 'counsel'. An attempt on his part to obtain a promise of good behaviour from the new council<sup>42</sup> was a notable failure. The events of 1258 showed that Henry III no longer had the power to enforce his will on Alexander III.

The years 1259 and 1260 show the resumption of more equitable relations between the kingdoms. Both realms were asserting themselves, evening out the rather one-sided state of affairs which had prevailed for most of the decade. Margaret's unpaid dowry was requested<sup>43</sup>, Henry was pushed to return a promised document<sup>44</sup> (perhaps the agreement of 1255), and to give his support to a Scottish coronation.<sup>45</sup> On his part, Henry III successfully requested a visit of the Scottish king and queen to England<sup>46</sup>, which took place



in November 1260.<sup>47</sup> By that time it is clear that Alexander, now aged nineteen, was in personal control of the Scottish government, and that his minority had, de facto, ended.<sup>48</sup>

The events of 1249 - 1260 pose some interesting and significant constitutional questions, in the light of subsequent events. By what authority did the councils in Scotland rule? By what authority did Henry III intervene, what were his motives in so doing, and how was he regarded by the Scottish counsellors and king? The key to an understanding of the period lies in the position of Henry III. The traditional view has been to see Henry's actions as those of a concerned and loving father and father-in-law. Professor Duncan, although challenging the traditional interpretation of the minority, nevertheless accepts this view of Henry III, refusing to impute any darker motives to the English king.

"Neither document nor chronicle suggests that Henry III claimed to interfere by virtue of lordship. He interfered as a neighbour and father-in-law."<sup>49</sup>

Such a picture of Henry III seems to betray an inexplicable unwillingness to ascribe to him the type of attitude to Scotland held by every other English king from William Rufus to (at least) Edward III. The ancient claim to overlordship may or may not have been unfounded, but it certainly was no 'legend', and was naturally exercised when circumstances allowed. No king could justly claim to rule another kingdom in virtue of the fact merely that he was the father-in-law of that realm's king. In 1251 Henry III requested that the pope should not accede to the Scots' request for coronation and unction of their king, on the grounds that the king of Scots was his liegeman.<sup>50</sup> Henry also requested a teind from the Scottish church<sup>51</sup>,

a right which only an overlord could expect. He may have asked for homage for the kingdom of Scotland, and certainly he required Alexander to swear an oath to "faithfully and inviolably observe" the provisions of a settlement which he had, to all intents and purposes, imposed on the Scottish king. Although he had been nominally dissociated from the appointment of a Scottish council in 1251, there was no such constitutional nicety in 1255, and in that year Henry's action was indeed to attempt to impose

"a constitutional straitjacket... for an extraordinarily long period, which implied in effect that Henry was himself to control the government of Scotland for as long as he possibly could".<sup>52</sup>

His possession of the 1255 document, so incriminating to the realm's sovereignty that its return was demanded, similarly belies the friendly nature of Henry's intervention, as do his vain requests for military service in both 1253 and 1258.

To what extent Henry III, or any other English king, believed in the right to overlordship must be debatable. However, he, like all English kings of this period, was keen to promote that claim when the opportunity was afforded. To reject that motive for Henry's actions in the minority of Alexander III is blindly to deny him much of the political sense and statesmanship which characterised his rule.

Given that Henry III was imposing his will on Scotland in a thinly veiled attempt to make good the old claim to English overlordship, the actions and motives of the other parties become clearer. In 1251 the Durward faction was removed from office because it followed policies which were distasteful to Henry III. Four years later the Comyn faction suffered a similar fate for precisely the same reason. This fact must devalue the old view which, with



reference to the minority, simply labelled Durward 'pro-English' and Comyn 'anti-English'. Both groups, when first in power, refused to govern within the strictures of English hegemony. In so doing, they followed an instinct which asserted the freedom of Scotland from such external interference. Whilst the concepts of 'the crown' and 'the nation' may not have been fully developed in this period, they certainly existed, and influenced men's actions.

In 1255, however, the situation changed, with the Durward party regaining power entirely due to the exertion of English influence. They owed their position to the fact that Henry III believed that his interests were likely to be served more fully by them than by the Comyns. In Henry's eyes, at least, the division into pro- and anti-English parties was thus real enough after 1255. The events of 1258 emphasise this, when Henry's efforts were channelled, albeit unsuccessfully, into re-establishing Durward, and through it English, control in Scotland. The fiercely opposing partisan views of the two major chronicle sources also support this view: the Melrose Chronicle's treatment of Durward and his English-favoured allies as traitors to the realm, compared with Fordun's distrust of the Comyns and his eulogism of Henry III<sup>53</sup>, gives truth to the view that the second half of the minority did indeed see factional division on patriotic grounds. What had happened was that the completeness of Henry III's power in 1255 had thrown the Durwards entirely into dependence on him. To retain power (which, irrespective of national allegiance, was the primary objective of both parties), they had to govern in accordance with Henry's wishes. If they co-operated, they held, in effect, a seven-year contract. The Comyns, in opposition to



the Durwards, thus found themselves also in opposition to Henry III. As the English king's power waned as a result of problems at home, the Comyn faction used their anti-English stance to oppose the Durwards and inveigle their way back into power in Scotland. Their stance appears to have appealed to Alexander III (although he was no longer prepared to be controlled by any group), who used the coup of 1257/58 largely to rid himself of English interference. The events of 1258 thus show the first real assertion of the Scottish crown's independence by Alexander III. His inclusion of the Durwards in the new council in 1258 may have been partly a sop to Henry III, but it must also be seen as an attempt to create some unity within the Scottish community, to avert further civil strife, and to strengthen his independent rule of the kingdom. For part of the minority, therefore, it is fair to see the struggle in terms of pro- and anti-English factions, not because of a greater innate patriotic feeling on one side than the other, but because of the opposing circumstances in which the two groups found each other: either in power and in favour with Henry III, or powerless and opposed by him.

The Durwards, although included in the council of 1258, never regained the glory of their former position, perhaps discredited by their pro-English activities towards the end of the minority, and by Alexander's fear that, if given the opportunity, they would once again try to re-assert themselves to the exclusion of others. Even although Alexander III and Henry III quickly established good relations after the minority, the continued favour which Henry III showed to some of the ousted Durward supporters<sup>54</sup> may have acted against their gaining power in Scotland.

The fundamental character of the minority is thus of resistance to English overlordship, at first by the Durwards, who gave in to English pressure after 1255, then, more consistently, by the Comyns, and finally by Alexander III himself. The concept of nationhood was still in its infancy, and found no explicit written expression, but a feeling that a threat was posed by English domination was clearly present in the community. The threat had, after all, been shown in the church's (and the crown's) twelfth-century struggle against the grasping metropolitans of York and Canterbury, and in the mid-thirteenth century it was the community and the king's turn to oppose these ambitions. The defence was ill-organised and inconsistent, and hardly displayed any national unity. With hindsight, though, this serves to highlight the growth in political awareness which became apparent at the end of the century, when constitutional crisis struck the realm. Even during the minority itself, an awareness for the need for organisation grew: the visit of Alexander III and his queen to England in 1260 shows the development: the queen was allowed to remain in England after Alexander's return, to give birth to her expected child, on the condition that if Alexander should die before her return, she and the child would be handed over without delay to a committee of guardians consisting of four bishops, five earls and four barons, no matter what conditions prevailed in the two kingdoms.<sup>55</sup> This could hardly have been a proviso sought by Henry III, and demonstrates a new awareness on the part of the Scots that in such a situation unified and organised action was essential in order to keep the peace and weather the threat which a weak monarchy posed to the sovereignty of the crown.



It is reminiscent of the regency arrangement made in 1286 and on several subsequent occasions. Once learnt, the lesson was never forgotten.

For the most part, the rest of Alexander III's reign saw a fairly steady growth, politically and economically, which rendered Scotland strong, stable and prosperous by the last quarter of the century. An important element in this growth was the consolidation of the western boundaries of the kingdom. The western isles and the remoter areas of the western mainland had for long owed allegiance to the Norwegian king. This posed a threat to the kings of Scots and was frequently troublesome also for the kings of Norway, who exercised little or no control over these unruly outposts of their dominions. For some time, the Scots had entertained ambitions to take the isles, which had figured significantly in Scottish politics at various times, and occasionally certain of the lords of the area had recognised Scottish authority rather than Norwegian, realising that the immediate power of the Scottish king was a force more to be reckoned with than the distant Norwegian overlordship. However, the allegiance, when given, was rarely more than nominal, and it was a policy of the thirteenth-century kings of Scots to bring the west more completely under their control. Alexander II had died during such an attempt, and Alexander III was fully aware of the need for his authority to extend to the logical confines of the kingdom.

This policy, naturally, led to conflict with the kings of Norway. From time to time tension appeared in relations between the realms, when merchants or ambassadors were imprisoned<sup>56</sup>, but early in Alexander's personal reign, conflict became more overt. In 1261 a

Scottish embassy went to Norway to discuss the problem of the isles, and was held by the Norwegians.<sup>57</sup> A Scottish force, led by the earl of Ross on the king's behalf, attacked the isles in the following year<sup>58</sup>, and Hakon IV's reaction was to prepare a mighty fleet to re-conquer the islands for Norway, and re-assert their Norwegian ownership. Alexander responded by preparing for the defence of the kingdom in case of full-scale invasion<sup>59</sup>, but that proved unnecessary. When Hakon's fleet arrived on the west coast in the late summer of 1263<sup>60</sup>, it was to find only lukewarm support from the islesmen, which seriously undermined its effectiveness. Nonetheless, Rothesay castle was taken, and, in an attempt to encourage Alexander III (who came to Ayr) to negotiate more favourably, the Norwegians penetrated into Loch Lomond and devastated the Lennox. The negotiations were fruitless, however, and the invasion came to an untimely end in the autumn, when storms drove some of the ships ashore, and a battle was fought between a Scottish force and the Norwegians. Both sides claimed victory in the Battle of Largs; probably neither suffered badly, but it was enough, combined with the worsening weather, to convince Hakon IV of the futility of extending the campaign. He sailed northwards, exacting tribute from the islands as he went, and arrived in Orkney in October. Here he fell ill, and died in December.

The failure of the western campaign, the death of Hakon IV, the unwillingness of many of the islesmen to antagonise the Scottish crown, further Scottish action in Caithness and the west which brought many of the nobles of the area to King Alexander's peace, and above all the surrender of the king of Man<sup>61</sup> to Alexander III, who



threatened the island with invasion in 1264<sup>62</sup>, persuaded the new Norwegian king, Magnus IV, to negotiate. After prolonged negotiation, peace was made in July 1266<sup>63</sup>, in the Treaty of Perth, which ceded the isles (excluding Orkney and Shetland) to the Scottish crown in return for a payment over four years of four thousand merks, and an annual payment thereafter of one hundred merks. It provided that the islands were to be subject to the laws and customs of Scotland, that any who wished to remain under Norwegian lordship could leave unimpeded, and allowed for the free return of Norwegian goods and men suffering shipwreck on the Scottish coast. It was a mature and realistic settlement, which recognised that the islands were ungovernable from Norway, and that any attempt to retain them would merely cause futile bloodshed. To Alexander it gave the financial and military resources of the isles (without which it is doubtful if Robert I could successfully have waged his war against the English early in the next century), and the opportunity to start assimilating the nobility of that area into the Scottish community.

The events which led to the Treaty of Perth were the most spectacular of which we hear in Alexander III's reign. The key to the period's designation as a 'Golden Age' appears to have been its stability and peacefulness. In 1265 the Scottish king prepared to give Henry III aid against his rival, Simon de Montfort, but the forces he had gathered were not required.<sup>64</sup> Fordun also tells us of the Scots king and clergy's refusal to bow to papal demands for a tax of the Scottish church in aid of the English crusading effort<sup>65</sup>, although Scots did apparently take part in Louis IX's second crusade of 1270, in which David earl of Atholl, Adam earl of Carrick "and a great many other Scottish and English nobles" died.<sup>66</sup>

Also on crusade was Prince Edward, the heir to the English throne when, in November 1272, Henry III died. Edward I was crowned at Westminster in August 1274, an occasion which Alexander III, his queen and many Scots nobles attended.<sup>67</sup> This occasion marked the beginning of the next phase of the English claim to overlordship of Scotland. Alexander III went to Westminster as an English baron, in virtue of his English lands, although a written assurance was provided that no prejudice would redound to his kingdom by his attendance. He did not, however, perform homage for those lands, a matter which was a point of discussion for several years.<sup>68</sup> In October 1278 Alexander III went south again, to perform the homage, having first obtained the necessary promises that his attendance would in no way prejudice the rights and liberties of his realm.<sup>69</sup> On 28 October, at Westminster, Alexander performed the homage for his English lands, but denied strongly that any homage was due to Edward for the Scottish kingdom<sup>70</sup>:

"nobody but God himself has the right to homage for my realm of Scotland, and I hold it of nobody but God himself".

This followed an attempt by Edward and his advisers to open the claim to overlordship, by reserving the right to discuss the matter in the future, or seek homage "if it was due". Alexander's action in swearing his oath vicariously (a right reserved for kings), and his firm reply to the suggested homage for the kingdom, put paid, for the moment, to English ambitions. At a time when Alexander III was at the height of his power, and Edward was still a young king, he can have had little hope of any more fruitful outcome, but this episode nevertheless indicates that Edward, like other English kings before



him, was aware of the old claim, and would press it should a suitable opportunity arise.

About the same time there appears to have been some general tension disrupting the otherwise good relations between the two kingdoms. Earlier in 1278 there had been some fairly serious trouble on the border, according to Fordun a dispute between the kings "about the boundaries and marches of the two kingdoms".<sup>71</sup> A meeting was held in Berwick towards the end of March, attended by the bishops of St. Andrews, Glasgow and Dunblane "with a great many earls and other nobles", and the bishops of Norwich and Durham, the sheriff of Newcastle, and "a great many other knights and clergy" on the English side. The exact nature of the dispute which called for a gathering of such distinction has been lost to posterity, but the problem was not solved by the meeting, and "they went away without having settled the business".

The remaining years of Alexander's reign appear to have been characterised by peace, good relations with other kingdoms, and strong rule. The question of the succession to Alexander III seems to have been the only blight on an otherwise almost idyllic period. In early 1275 his queen, the English king's sister, died<sup>72</sup>, leaving Alexander with two sons, Alexander and David (born in 1264 and 1273 respectively) and a daughter, Margaret. The last five years of Alexander's own life saw the death of all three children: David in 1281, Margaret in 1283, and Alexander (married, but childless) in 1284.<sup>73</sup> In 1281 Margaret had married Erik II of Norway, and at her death she left an infant daughter, the only heir in direct line to Alexander III after 1284. To a country enjoying the fruits of strong

government, and apparently secure for the future, the death of all of the king's children was an almost unthinkable tragedy. The hope for the future now lay in Margaret, the 'Maid of Norway'. If the king should produce no more heirs, she would bear the burden of leading Scotland. It was to this rôle, as a queen, that Alexander III referred in a letter to Edward I in April 1284<sup>74</sup>, shortly after Prince Alexander's death, when he reminded Edward that "much good may come to pass" through Margaret.<sup>75</sup> The death of his children spurred Alexander III to the search for a second bride, in order to secure the succession. In 1284 he was already in his forty-third year, and there could be little time to waste if a minority was to be averted. Thus,

"King Alexander, by the advice of his liegemen, took steps to send his ambassadors - to wit, his chancellor, Thomas of Charteris, Patrick of Graeme, William of St. Clair, and John of Soulis, knights - to look him out a spouse sprung of a noble stock. So, without delay or tarrying at all, they went off to France".<sup>76</sup>

In case the effort to produce another heir failed, however, Alexander held a parliament at Scone in February 1284, at which an impressive array of the baronial leaders of the Scottish community swore to accept and uphold Margaret 'Maid of Norway' as the heir to the king, should no further offspring be born of the king or his late son.<sup>77</sup> Their actions in consequence of this undertaking were to be subject to the judgement of the Scottish bishops, who must therefore be assumed to have been privy to it, and in agreement. The entail of 1284 was thus an agreement by the community of Scots to uphold Margaret in her rights to the crown, should she indeed be Alexander's only heir at the time of his death.



The idea that Alexander could be succeeded by a female was not new to the Scots in 1284. In 1281, when the king's daughter had married Erik II, the young prince David had not long since died. The possibility of Prince Alexander's death was foreseen in Margaret's marriage treaty<sup>78</sup>, in which it was stated that

"If it should happen that the lord king of Scots should, by some calamity, die without a legitimate son, or leave none of his sons, however legitimate, and the said Margaret has children of the king of Norway, she and her children will succeed the said king of Scots, and her children, or she herself if she is without children, [will succeed to] the kingdom as well as other goods, according to the law and customs of Scotland".

The duty of the king to provide for the succession was one which had to be taken seriously, even in the apparently secure situation of 1281.

The agreement of the nobles to accept Margaret 'Maid of Norway' failing other heirs, did not end Alexander's quest to leave the realm secure. Late in 1285, the king married Yolande, the daughter of the Count of Dreux.<sup>79</sup> But the marriage was short-lived, and the quest for heirs unsuccessful. In the following March, Alexander III died at Kinghorn in Fife, when, after a council in Edinburgh, he was returning late at night to his new bride. His horse stumbled and threw him, and the king was found dead the following morning.<sup>80</sup>

The community, keen to avoid the turmoil which had so damaged the kingdom in the early years of Alexander's reign, picked up the reins of government quickly and in a surprisingly organised manner, but that could not obscure the catastrophe which had befallen the land. With hindsight it is possible to see the change in Scotland's fortunes which followed the death of this king. In 1286, however, the calamity was as real: Alexander III had led the nation out of a

period of internecine strife and corrupt and ineffective government, to a state of unprecedented stability, peace and prosperity. He had increased and consolidated the boundaries of the kingdom, and, according to Fordun<sup>81</sup> at least, his reign saw justice and well-being abound. The tragedy of his death lay in the fact that this most successful of kings, but for his untimely death, could have had longer in which to give Scotland the benefits of his leadership. The feelings of the community at his death are best summed up by the probably contemporary fragment of poetry preserved in Wyntoun's chronicle<sup>82</sup>, which, it should be noted, makes no reference to the events which followed: it is, in truth, a lament for a well-loved king.

"Quhen Alysander oure Kyng wes dede,  
That Scotland led in luive and le,  
Away wes sons [plenty] of ale and brede,  
Off wyne and wax, off gamyn and gle:  
Oure gold wes changyd in to lede.  
Cryst, borne in to Vyrghnyte,  
Succoure Scotland and remede,  
That stad is in perplexyte."

To discover how King Alexander had established this near-utopian situation in Scotland, it is necessary to look beyond merely the political events of his reign. The abundance of ale, bread, wine and wax (staples of medieval life), gold and simple happiness was the result of his conduct of the judicial, administrative, and economic aspects of day-to-day government.

The Regiam Majestatem, the only Scottish medieval tract which goes into any depth about the duties of the king, places great stress on the judicial side of his government: the king is the fount of



justice, the upholder of good, and the crusher of evil. Through his maintenance of justice, the people of his realm are protected from oppression and wrong. Fordun's criticisms of the governments of the minority centred on the lawlessness of their leaders, and the consequent 'drudgery' suffered by the people of the kingdom, in contrast to the prosperity enjoyed under Alexander's rule, which was notable for fairness and discipline. The 'most free justice' which the men of Scotland were 'known to enjoy'<sup>83</sup> was the result of more than the king's noble-spirited mind. It came about through careful judicial administration: good choice of justiciars and other royal officials, strict attention to their conduct and to judicial practice. Only by ensuring that the law was fair, and that it was enforced in a manner designed to benefit the litigants rather than the judiciary, could men enjoy 'free justice'.

Alexander III certainly made full use of the judicial system established by his predecessors, which had been so abused in his minority by, for example, Alan Durward being the 'sole justiciar' of Scotland.<sup>84</sup> Probably from the time of the king's assumption of power in 1258, Alexander Comyn, earl of Buchan, was justiciar of Scotia<sup>85</sup> (the land to the north of the Forth), and held itinerant courts at which, if he himself was not available, a substitute of similar rank and standing took his place.<sup>86</sup> Hugh Berkeley was justiciar of Lothian, also from 1258, and in Galloway John Comyn of Badenoch held the post from 1258 at least until 1264, and possibly until the end of the reign.<sup>87</sup> The evidence for the regularity of justiciars' courts in Alexander III's reign is not plentiful, but records of courts held in 1250, 1253, 1255, 1259, 1260, 1262, 1266, 1276, 1281 and 1284<sup>88</sup>,

leave one in no doubt as to the activity of these officials. References to such bodies as 'the full court of Fife'<sup>89</sup>, and to figures such as 'dempsters'<sup>90</sup> and judices<sup>91</sup>, and to the money raised from judicial process<sup>92</sup>, are a further sign of the activity of the local judiciary, even if its actual effectiveness cannot be gauged.

The other important official in the locality, not merely for justice (although that was a large part of his function), but for general fiscal and civil administration, was the sheriff. There is every evidence that in his minority and in his personal rule, Alexander's reign saw full use of the system of sheriffs. This is hardly surprising, since it was primarily through the sheriffs that any government kept control of the land: a network of loyal sheriffs was essential to the success of the administration. Without them the judicial and fiscal organisation was necessarily chaotic. The names of many sheriffs have survived from this reign<sup>93</sup>, showing that sheriffs were in office in practically all (if not all) of the thirty or so sheriffdoms which existed in the mid-thirteenth century. There is no reason to believe that a full complement of sheriffs was not in office throughout Alexander's reign, and that they did not carry out their full judicial function. Certainly, sheriff courts<sup>94</sup> were held to inquire into both civil and criminal cases, and to pass on to the justiciars, or to the royal court, those matters which could not be resolved at the local level.

The extent and efficiency of the judicial system did not absolve the king of personal responsibility in such affairs. The king's own court was the final court of appeal: those who failed to find justice



at the hands of his judiciary took their pleas before the king himself, who gave judgement with the advice of his council, or in full parliament.<sup>95</sup> At this stage, the differentiation between a meeting of the king's council and of parliament is unclear. Many meetings of the council are recorded, but not all would appear to merit the description 'parliament', being too limited in their composition. Between 1258 and the end of the reign at least twelve gatherings or colloquia, were held, but it is not easy to assign each to a recognisable category.<sup>96</sup> Probably the composition and status of 'parliament' as opposed to 'council' was as yet undefined, and thus the bodies which dealt with the Treaty of Perth, the confirmation of the possessions of Dunfermline Abbey, and the 1284 settlement of the succession<sup>97</sup>, whilst not described as parliaments, may safely be assumed to have been such. Matters of purely judicial interest, not touching upon the rights or possessions of the crown, or the interests of the realm as a whole, may safely have been left to the scrutiny of a more select group of the king's advisers, a body of less representative nature. To carry the distinction further in a period of such scanty record evidence is probably over-ambitious.

However vague our knowledge of the procedures by which Alexander III fulfilled his judicial function, it is nevertheless certain that he established a formidable reputation as a firm, but fair, judge. Fordun's description of the unrighteous gladly bending before him, their necks voluntarily placed in the noose in case hanging should be his will<sup>98</sup>, though clearly a piece of poetic indulgence, nevertheless gives the impression of a much-respected, fair and impartial judge.

The king and his council, of course, were responsible for more than merely the judicial side of government: they formed the executive body which had oversight of all aspects of the realm's administration. The king could not rule alone; his council had to approve and lend assent to his legislation, and indeed to the entire conduct of his office. The 'community', although not a term found in documents of Alexander III's reign, was clearly considered to exist, represented by the king's council. That the king governed through the 'common council' (commune consilium)<sup>99</sup> of his magnates, implied a mutual responsibility for the realm's well-being, which was the basis for the massive part played by the community in the struggle for national integrity which was to follow the death of Alexander III.

Closest to the king in the administration of the realm were those members of the council who held high office, pre-eminently the chancellor and the chamberlain.<sup>100</sup> The chancellor held the king's Great Seal, which was used to authenticate almost all Scottish royal writings in this period. His position was therefore of fundamental importance to the realm. Without his use of the seal to give credibility to royal acts, and without his office, which physically produced those acts, the king had no public voice in the realm; his grants of land, his legislation, his judgements and edicts, had no means of communication to the governed. Such an important office was therefore always held by one who was trustworthy and learned - usually a high-ranking cleric. Alexander's first chancellor was Robert, abbot of Dunfermline, who had been given the post near the beginning of the reign. He was ousted from office (and from his abbacy) in 1251, being replaced as chancellor by Gamelin. Although



he too was removed from office in the coup of 1255, Gamelin remained prominent, being chancellor of the see of Moray until 1257<sup>101</sup>, and bishop of St. Andrews from late 1255 (although in exile until 1258).<sup>102</sup> His successor in office was Richard of Inverkeithing, bishop of Dunkeld, and he in turn was replaced in the coup of 1258 by William Wishart, archdeacon of St. Andrews. In 1273, when Wishart became bishop of St. Andrews, he relinquished the chancellorship to William Fraser, dean of Glasgow (who also succeeded Wishart as bishop of St. Andrews in 1279). Late in the reign, Alexander appointed as his chancellor Thomas of Charteris, about whom less is known, although earlier in the reign he had held the archdeaconry of Lothian.<sup>103</sup> This succession of prominent, well-educated men is a testimony to the importance of the office. Although not all of them held the office with equal integrity<sup>104</sup>, the appointments nevertheless demonstrate that no administration could afford to be without a chancellor who was sympathetic to the régime, and of sufficient ability and standing to carry the office with dignity.

The chancery, or king's writing office, was run by clerks under the direction of the chancellor. They administered the issue of documents, kept the records, and one particularly trusted clerk was sometimes given power to deputise for the chancellor when other duties monopolised his time.<sup>105</sup> The chancery was also ultimately responsible for the financial side of government: the accounts of sheriffs, justiciars, and other royal officials had to be submitted to the exchequer for audit, but at this stage the exchequer was less of an independent office than a sitting of a financial court made up of members of the king's council. In this court the chamberlain and

especially the chancellor played a key rôle. The chancellor was, therefore, par excellence, the right-hand man of the king in government. His function was not limited to the tutelage of the king's seal, but involved him in both administrative and fiscal areas of the government, which rendered his faithfulness, efficiency and integrity invaluable assets to the king. Alexander III's reputation as a good ruler must have rested largely upon his choice of officials, particularly his chancellors.

The royal chamberlain was another vitally important officer, although he held less political power than the chancellor. He ran the king's household, supervising a battery of clerks who handled the provision of food, clothing, furnishings and the other needs of the king and those who were in attendance on him. The running of the household of necessity closely involved the chamberlain with the royal income.<sup>106</sup> He appears to have been primarily responsible for the income received from the burghs, and his position, with the chancellor, in the court of exchequer, gave him an important place in the economic administration of the realm. The money received from all sources - rents, fermes and profits from demesne lands, feudal incomes, justice, import and export duties and customs, and other occasional taxation - all passed through the hands of the relevant local officials, who accounted to the exchequer. Any surplus came through the exchequer to the household, and in turn it was the chamberlain who disbursed money to those whose accounts showed a justifiable deficit. The financial duties of the chamberlain were important in the 'good' government of Alexander III, for should he fail to find the necessary income for the household, the king would



be forced to impose unduly upon his subjects, perhaps to an extent constituting oppression. The thirteenth-century tract, 'The King's Household', makes it clear that the chamberlain's duty was to provide for the king and his court without such burden on the land. Fordun's comments regarding the 'poor crushed down' and 'the drudgery forced upon citizens' under the Comyn administration of 1251 - 1255, and the 'grinding of the poor' under the Durwards in 1255 - 1257<sup>107</sup>, draw attention to the financial burden of bad government. It is noteworthy also that in 1326 Robert I imposed a tax on the community because the war had so drained the royal coffers that the estate of the crown could not be upheld "without intolerable burden on the people".<sup>108</sup>

The prosperity which Alexander III's rule brought to Scotland was not, of course, the result only of careful administration of the internal affairs of the kingdom. It had a great deal to do with the relations between Scotland and other kingdoms, which regulated trade, and fed the realm's economy. Alexander was fortunate in being able, for most of his reign, to uphold good relations with the countries with which Scotland traditionally traded. In times of peace, trade with England must have accounted for a large percentage of the realm's commercial activity. As has been seen, from the time of his assumption of the reins of government in 1258, Alexander III and his English counterparts, by and large, managed to maintain friendly relations, and what evidence we have suggests that intercourse between the realms was of a normal and healthy nature.<sup>109</sup> Disputes on the border over trade were inevitable, and sometimes appear to have caused tension<sup>110</sup>, but most seem to have been settled amicably

according to the appropriate 'laws and customs'.<sup>111</sup> Detailed references to trade and merchants are few, but are sufficient to demonstrate that trade in such commodities as wool and corn was common between the realms, although subject to the restrictions and difficulties experienced by either country in the regulation of its economy, or its relations with other kingdoms.<sup>112</sup>

Norway, in the earlier part of Alexander III's personal rule, obviously posed special problems with regard to trade. Nonetheless, the fact that trade had been disrupted was a pointer to the more normal state of affairs. In June 1264 Henry III wrote to King Magnus of Norway<sup>113</sup> regarding tension in trading relations which had led to English ships and merchants being arrested. As well as asking redress for these offences, he accused Magnus of making war on the Scots, which, in the interests of all three countries, he requested him to cease. The Treaty of Perth itself made provision for the retention by their owners of ships of either country which were wrecked on the coasts of the other, another certain indication that intercourse across the North Sea was common. Indeed, the treaty was probably made with commercial interests in mind. No good could come of continued conflict between the two countries, which disrupted trade and diverted money to defence or hostilities. Alexander's initial refusal to negotiate in 1264 was probably an attempt to win time in order to gain a better negotiating standpoint. That he wished for peace, however, partly in the commercial interest, cannot be doubted, and is supported by his patience with the protracted negotiations which led to the treaty in 1266, when Alexander knew that he could take and hold the isles by force.



Scotland's traditional trading grounds in France, the Netherlands and the Baltic must have been actively worked in this period. The hides and wool which were Scotland's largest exports were bound to be plentiful in a time of prolonged peace, and even during war-time the merchants of those areas were willing to run the gauntlet of English blockades to continue that trade. Specific examples of this trade are scarce in Alexander's reign, but the general picture given in the Exchequer Rolls<sup>114</sup>, with frequent references to imported goods such as wine, to customs duty, to export goods, and to shipping, shows clearly enough that Scotland was making full use of her stability to improve her economy. Again, the English evidence is helpful. In January 1265 two Scottish merchants complained to Henry III that they had been seized in Great Yarmouth with the two Flemish ships which they had freighted in Scotland with goods to go abroad.<sup>115</sup> The well-known complaints of John Mazun of Bordeaux against Alexander III<sup>116</sup>, which were later to figure in the downfall of King John, are another sign of trading activity. Another two merchants, this time from Aberdeen, were taken near Great Yarmouth in 1272, on their way to St. Omer with a cargo of wool, ox-hides, salmon, timber, deer-hides, lambskins and "much other merchandise".<sup>117</sup> Another similar case saw the loss of wool and other goods by Berwick merchants on their way to Dieppe.<sup>118</sup>

Trade was, of course, encouraged by its own success. The plentiful supply of money which strong rule brought to the kingdom itself stimulated commerce still further: the prosperity of the kingdom, in theory at least, could enter an upwards spiral only to be broken by outside influence. It was therefore an important feature

of the king's economic policy that he should keep a careful watch on the money supply, and prevent any drain of cash out of the country which did not produce sufficient return. Many kings passed legislation prohibiting the export of cash<sup>119</sup>, but no example is extant from the reign of Alexander III. His resistance, however, to some of the taxation imposed by the papacy may well have been partly for this reason. Quite apart from the implications for Scottish sovereignty of grants in aid of an English crusade, the two thousand merks sought in 1266 and the teind sought thereafter<sup>120</sup> represented considerable sums of money, for which no commercial return could be expected. Though some papal levies were met<sup>121</sup>, apparently without question, demonstrating the king's willingness to pay his kingdom's share for the defence of Christendom, these extra demands were an unacceptable threat to the economic prosperity of the realm, and were therefore resisted.

The main elements of Alexander III's rule of the kingdom which gained him the reputation as a king who had brought almost untold benefit to the realm were thus his defence and consolidation of the kingdom's independence and possessions, his fair and firm administration of justice, efficiency in matters fiscal and economic, and, above all, his success in maintaining peace. Few kings had managed in the past to produce such consistent results in all these fields. The fact that Alexander's success grew out of a decade of factional strife, corrupt government and external interference renders his achievement more remarkable in the same way that the



accomplishments of Robert I are highlighted by the despair which had gripped the kingdom before, and in the early years of, his reign. In the fragment of poetry quoted by Wyntoun and in Fordun's obituary of Alexander III there are even hints of the concept of sacral kingship: while Alexander III was at the helm, all was well with the country, and the necessities of life were never scarce. To these authors at least, he was the epitome of all that was best in a king, and no harm could come to a kingdom which was under such leadership.<sup>122</sup>

This attitude is interesting, for it implies that the practice of good rule was in fact closely related to the theories of kingship which were prevalent at that time. Abstract political theory can sometimes reflect little more than the impractical idealism of philosophers.<sup>123</sup> However, if we compare what seem to have been regarded as the good points of Alexander's rule with the attitudes of, for example, Aquinas and Dante towards secular rule, and the requirements laid down in Regiam Majestatem, it appears that Alexander III did embody the ideal of the archetypal 'good king'.

Political theory in the thirteenth century was a field of study which reflected the 'transition and crisis' which was affecting Christendom in that period:

"On one side was the old idea of the fundamental unity of mankind, expressed in a universal Empire and in a universal Church. On the other, the new and modern experience of a number of independent communities, gradually becoming aware of their independence."<sup>124</sup>

The emergence of this new style of monarchy, and these new, self-aware political units, made necessary the expression of how, in the new situation, authority should be wielded. Aquinas and Dante came to the conclusion that any political unit, of whatever nature,

required regimentation, and that the most effective method was rule by one man who carried the authority of the communitas. This laid immutable responsibilities on the chosen ruler to govern in the interests of the whole community, for tyranny (that state where the ruler wields power in his own interest, rather than in that of his people) would bring about the downfall of the community:

"the people [do not exist] for the sake of the king; on the contrary, the king is for the sake of the people"<sup>125</sup>

"it is of the nature of kingship that there should be one to rule and that he should do so with a view to the common good without seeking private gain"<sup>126</sup>

"a just king makes rich the earth, but the miser destroys it"<sup>127</sup>

"in such circumstances [tyranny] there is no security, and all is uncertain: for there is no law".<sup>128</sup>

The material and spiritual welfare of the ruled are thus placed at risk by the bad ruler. To avert this danger, the choice of king had to be carefully made: he must be of the true 'kingly' character and ability.

Secondly, restrictions must be placed on the extent of royal power, even to the point of deposition. There was a feeling that a ruler could not be bound by the laws which he himself had made<sup>129</sup>, but that he should voluntarily submit himself to them, being aware of his moral responsibilities, and of the judgement of God upon him. He should act in obedience to, and in fear of, God, and therefore not look down upon his people in pride, nor oppress them.

This most fundamental duty, to promote the common weal, finds expression in two basic ways: the king must establish 'peaceful unity' and uphold equitable justice. Through these two kingly functions liberty and stability will be found, and the people will



thus be able to live at peace, increase their material prosperity, and through love for their fellow-men, grow spiritually and be led closer to God:

"the most important task for the ruler<sup>130</sup> of any community is the establishment of peaceful unity"

"every kingdom divided against itself shall be laid waste"<sup>131</sup>

"the world<sup>132</sup> is best ordered when justice is at its strongest".

Dante, at least, felt that man could only fulfill his true potential "in the quietude or tranquillity of peace"<sup>133</sup>, and that one leader was required for a kingdom to achieve the necessary unity and peace:

"his office is to provide freedom and peace for men as they pass through the testing-time of this world".<sup>134</sup>

The importance of law, of impartial justice, of unity and of peace, however, did not proscribe the use of might and warfare. But these were tools of kingship to be used only in the interests of justice. In a situation where justice demanded the resort to arms, God would come down on the side of righteousness. In this way God controlled the temporal conflicts of mankind, and by his judgement gave authority to those who ruled men.

Regiam Majestatem<sup>135</sup> was an attempt to schematise the law of Scotland, to produce a digest which accurately reflected the state of law by which the Scots were governed. In many respects its comments on the rights and responsibilities of the royal office are therefore a more practical expression of political theory than the works of philosophers. Nevertheless, it paints very much the same picture of the position of the king in the realm. It speaks of the reciprocal duties of the king and his subjects, and the legal and moral

obligation on the king to uphold law and justice. We are told of the limitation of his power, specifically in relation to alienation or diminution of the realm and infringements of the 'rights' of his subjects, and of his position as a ruler who derives his authority directly from God, with no other human superior. Most emphasis, however, is laid on his absolute duty to provide equitable justice and fair laws, by which means the realm could find peace and stability. The king is, above all, 'the lover and author of peace'. His majesty could be made glorious in warfare, but only in pursuit of peace, to curb rebels or other challengers of his authority who threatened the well-being of the community at large.

With obvious application to the requirements of a national kingdom, this tract amply reflects the theories of good rule which were expounded in the thirteenth century: in theoretical terms at least, Scotland appears to have been on a par with other European countries in her political development. The conduct of his reign shows that Alexander III, who was almost universally recognised as a 'good king', matched the demands of this theory most commendably. The minority, of course, with its weak and divided government open to external threats which endangered security, was the antithesis of good rule. Alexander's own attempts at government, however, were more successful. His dealings with Norway show him defending and increasing the physical realm, using warfare where peaceful negotiation had failed. The Treaty of Perth<sup>136</sup> itself reflects the theory, as expounded above, in various ways. It was made "with the counsel of his magnates", and was an agreement "between the foresaid kings, their kingdoms, and the kingdoms' inhabitants". The clauses



in the treaty referring to the rights of those in the isles to leave if they so wished, to the punishment of disturbers of the peace, and to the amnesty towards those who had trespassed under the previous régime, demonstrate that the treaty concerned, and was made on behalf of, all the people of both kingdoms. Similar references to the king governing with, and for, his subjects may be found in, for example, a confirmation of the lands and privileges of Dunfermline Abbey:

"I Alexander, by the grace of God king of Scots, son of Alexander, illustrious king of Scots, with the kingly authority, and the power and consent of the bishops, earls and barons of my kingdom, and the testimony and acquiescence of the clergy and people...".<sup>137</sup>

The marriage treaty of 1281 states that Alexander acted

"in his name, and in the name of the noble maiden Margaret, his beloved daughter, with the consent of the lord Alexander his son, and the whole of the council of the said lord king".<sup>138</sup>

Other such references to government by counsel of the community, and in the interests of the realm as a whole, are commonplace, and prove that the limited concept of medieval government which views it as conducted in the interests of a narrow section of the community, is flawed: in theory at least, government was exercised in the interests of all.

Returning to the Treaty of Perth, one finds frequent reference to the questions of truth, peace, and law. King Magnus, it is claimed, participated in the agreement because he was "a friend of peace and a fosterer of justice", and out of

"reverence for God and for love and diligent observance and cherishing of peace, the expulsion of danger to friends, and the avoidance of slaughter of men".

Alexander, in his turn, is described as "a devotee of truth, and lover of peace and concord". He takes part "for good peace, and so

that harassments and troubles may be averted". Once the lands in question had been ceded to Scotland, all men,

"as well lesser as greater, shall be subject to the laws and customs of the realm of Scotland and be judged and dealt with according to them".

The 'most free justice' enjoyed by the Scots has already been adverted to.

Finally, the king has no superior but God alone. This element of the theory is also reflected in the Treaty of Perth: for the greater security of its terms, the kings bound themselves to uphold the agreement, and consented to subject themselves to papal sanction (specifically including excommunication) if they failed. Their authority was derived from God, a fact which they explicitly accepted in the acknowledgement of the power of his delegate on earth to sanction them should they fail in their duties to uphold peace and justice.

Alexander III's refusal to render homage to Edward I for his kingdom of Scotland clearly states his contention that

"nobody but God himself has the right to homage for the realm of Scotland, and I hold it of nobody but God himself".<sup>139</sup>

The defence of the liberties and rights of the kingdom was fundamental to the king's rôle, and was demonstrated also in the care taken to ensure stable succession. The deficiency of government under a weak king and divided community had been demonstrated in Alexander's minority: his duty to the kingdom, for its unity and stability, and for the consequent peace and justice in which its people would live, was to provide for firm rule after his death.



Obviously, the holding of parliaments, the administration of justice, and the firm, non-oppressive conduct of government, which have been discussed above, further promote the idea that Alexander did attempt to live up to the expectations of the governed. His success can only be judged by the peace and unity which he did maintain, and in the eulogistic comments made by, for instance, Fordun and the anonymous poet quoted by Wyntoun. Of course, that laws and judgements were made was no guarantee that they would be upheld, and it must be severely doubted that true justice in the interests of all, weak or strong, rich or poor, could exist in mid-thirteenth century Scotland. Nevertheless, the conduct and documentation of Alexander III's reign do assert that his government was founded upon an attitude to his duties and responsibilities, and achieved the prosperous and peaceful results, which were consistent with the theories of good kingly rule as they appear to have existed in the thirteenth century.

Scotland, in the reign of Alexander III, was thus one of the new nation-states of Europe, aware of her independence, and organising her affairs in a manner very similar to that of most other kingdoms. The king was the central and most powerful figure in the realm, and while his rule was strong and beneficial the community was called upon to play little part. The place of the community in government, however, was recognised: their counsel was vital to just government, and their assent was a major part of the royal authority. This common responsibility, however, was not yet well-formalised. The

minority of the king had shown the community to be a disparate group, concerned more with personal power than with the interests of the realm. The great achievement of Alexander's reign, then, was not the prosperity which peace brought to the realm, but was the unity which he imposed on the community. Firm rule, and the insistence on the absolute independence of the kingdom, had wrought a change on the community: by 1286 it was a body which, in the face of extreme adversity, was able to work as one to maintain a large degree of peace and stability, far from the hopelessly divided and factionalised collection of self-seekers which had been its status in the mid-thirteenth century. Talking of 1251, Fordun commented that "these councillors were so many kings".<sup>140</sup> In contrast, his treatment of the events of 1286-89 displays a firm impression of the community as one body, ruling the kingdom as would a single king.

Alexander III's rule undoubtedly saw a strengthening of the place of the monarchy in Scottish society. This was to be expected in such a prosperous time: to support the king was to benefit the kingdom. The consequence of this was the enhancement of a feeling of national identity which undoubtedly existed by this period. The growth of a concept of 'the community of Scots' was part and parcel of such an identity, and the apparent selflessness with which the community set about its duty to the kingdom in 1286 was the result of the notion that the welfare of the kingdom as a whole was more important than the personal interests of any individual, and that the duty of all was to work for the common weal.

Theories of 'guardianship' and of communal responsibility during times of royal absence found no place in the expositions of



the thirteenth-century philosophers, whose concept of kingship, although dressed in fresh terminology, found its roots in the biblical message of justice and peace. As we shall find out, expressions of theory followed upon the practical solutions to political difficulties. During Alexander III's reign the concept of a joint, 'contractual' responsibility for the rule of the kingdom had found its way into Scottish political thought. By the end of the reign the concept was ready to be put into practice: for a quarter of a century a successful king had amply fulfilled his part of the contract, and one of his legacies to the kingdom was the ability of the community to sense its own part. In 1286 it possessed the unity and will to act accordingly.

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NOTES

- 1) Chron. Fordun I, p.293 (II, p.289).
- 2) Ibid.
- 3) The significance of the 'Seven Earls' is unknown. The apparently artificial selection of seven of the earls must be symbolic of a perhaps mythological superiority or antiquity: perhaps an idea of the traditional seven Pictish kingdoms named in the twelfth-century De Situ Albanie. At any rate, the 'Seven Earls' is an idea, and perhaps a body, which persisted into the following century.
- 4) Duncan, Scotland: The Making of the Kingdom, p.556.
- 5) See Appendix 2.
- 6) Chron. Fordun I, p.293 (II, p.289).
- 7) This had happened in England in 1216, when the earl of Pembroke knighted the nine-year old Henry III before his coronation, and was thereafter elected regent.
- 8) Royal councils, at least, continued to meet and deliberate on matters of national importance (A.P.S. I, p.425), and business such as border justice continued as usual (Close Rolls Henry III, 1247-1251, pp.356-57, e.g.), and apparently the Scottish judiciary remained active (Cal. Docs. Scot. I, no.1768).
- 9) A.P.S. I, p.425.
- 10) This is hardly surprising, when it is noted that Durward himself was the only justiciar in the land (Chron. Fordun I, p.293 (II, p.289)); see also Barrow, Kingdom, pp.137-38.
- 11) The attack on the church, at least, is borne out by the two letters in Robertson, Concilia, pp.241-46.
- 12) Chron. Fordun I, p.297 (II, p.292).
- 13) Ibid. I, p.295 (II, p.291).



- 14) Henry III had requested the pope to ban such rites unless carried out with his permission, before April 1251, presumably in response to a Scottish mission to the curia (Stones, Documents, p.[29]). In April 1251 some of the Scots envoys were returning from the curia (Close Rolls Henry III, 1247-1251, p.430).
- 15) Uction and coronation were symbols that the king's authority derived directly from God, with no intermediary, and hence that the king had no secular superior.
- 16) Chron. Fordun I, p.296 (II, p.291); Chron. Lanercost, p.57; Chron. Melrose, p.109.
- 17) Chron. Fordun I, p.296 (II, p.291); Chron. Lanercost, p.57; Chron. Melrose, p.109; Foedera I, p.279.
- 18) Chronica Majora, p.268.
- 19) Chron. Guisborough, p.183.
- 20) It is claimed in Chron. Fordun (I, p.296 (II, p.292)) and Chron. Melrose (p.110) that he sought legitimisation of his wife (an illegitimate daughter of Alexander II) so that she, their daughters, and hence Alan himself, would become the king's heirs.
- 21) Chron. Fordun I, p.296 (II, pp.291-92); Chron. Melrose, p.110.
- 22) Robert de Ros, lord of Wark, and John Balliol.
- 23) He had the right to appoint such representatives whilst his daughter was a minor. See Duncan, Scotland: The Making of the Kingdom, p.561.
- 24) Chronica Majora, pp.501-2, 505-6.
- 25) Close Rolls Henry III, 1253-1254, p.108.
- 26) Cal. Docs. Scot. I, no.1985.
- 27) Foedera I, pp.303, 322.
- 28) Ibid.. The repeat of this grant less than one year after the original donation, which was for three years, implies that the tax was not paid. Close Rolls Henry III, 1254-1256, pp.8-9 (1 December 1254) also indicates that there were difficulties in raising the money. See also Foedera I, pp.348-49.

- 29) Close Rolls Henry III, 1253-1254, p.2 (1 November 1253) is an example of this attitude in Henry III, as is his safe-conduct to Marie de Coucy of June 1257 (ibid., 1256-1259, p.134) which makes reference to the council "which we have placed" with the Scottish king.
- 30) Stones, Documents, pp.[30-34].
- 31) This statement is given a ring of truth by the tone of the document itself, which bears several features belying its apparent form of a freely-given letter from Alexander III. Most striking is the reference to guardianship: the council is to act as guardian of the king's person and that of his queen. Such a provision has no parallel in Scottish practice of this period: pre-arranged guardianship of this nature was at this stage an English custom. Its inclusion here, almost as a passing reference, gives a notable clue as to the true authorship of the document. (The Scots' own guardianship arrangement of 1260 (see below, n.55) was different: in a manner to be repeated in 1286, it arranged for guardianship after the death of the king. There is no Scottish suggestion of the council acting as regents for the reigning king).
- 32) The holding of colloquia, and references from them to Alexander governing through 'common counsel' of the barons, etc., during the minority, when initiative came from the council rather than from the king, indicates a sense of political identity, quite apart from the somewhat separatist policies pursued.
- 33) See, e.g. Foedera I, pp.353, 362; Cal. Docs. Scot. I, no.2080.
- 34) Chron. Fordun I, p.297 (II, p.293); Cal. Docs. Scot. I, no.2103.
- 35) Ibid.; Close Rolls Henry III, 1256-1259, p.168.
- 36) Cal. Docs. Scot. I, no.2155. This document surely shows that there is at least a grain of truth in the now unfashionable interpretation of the period in terms of pro- and anti-English factions. (See below, pp.15-16).
- 37) Duncan, Scotland: The Making of the Kingdom, pp.572-73.



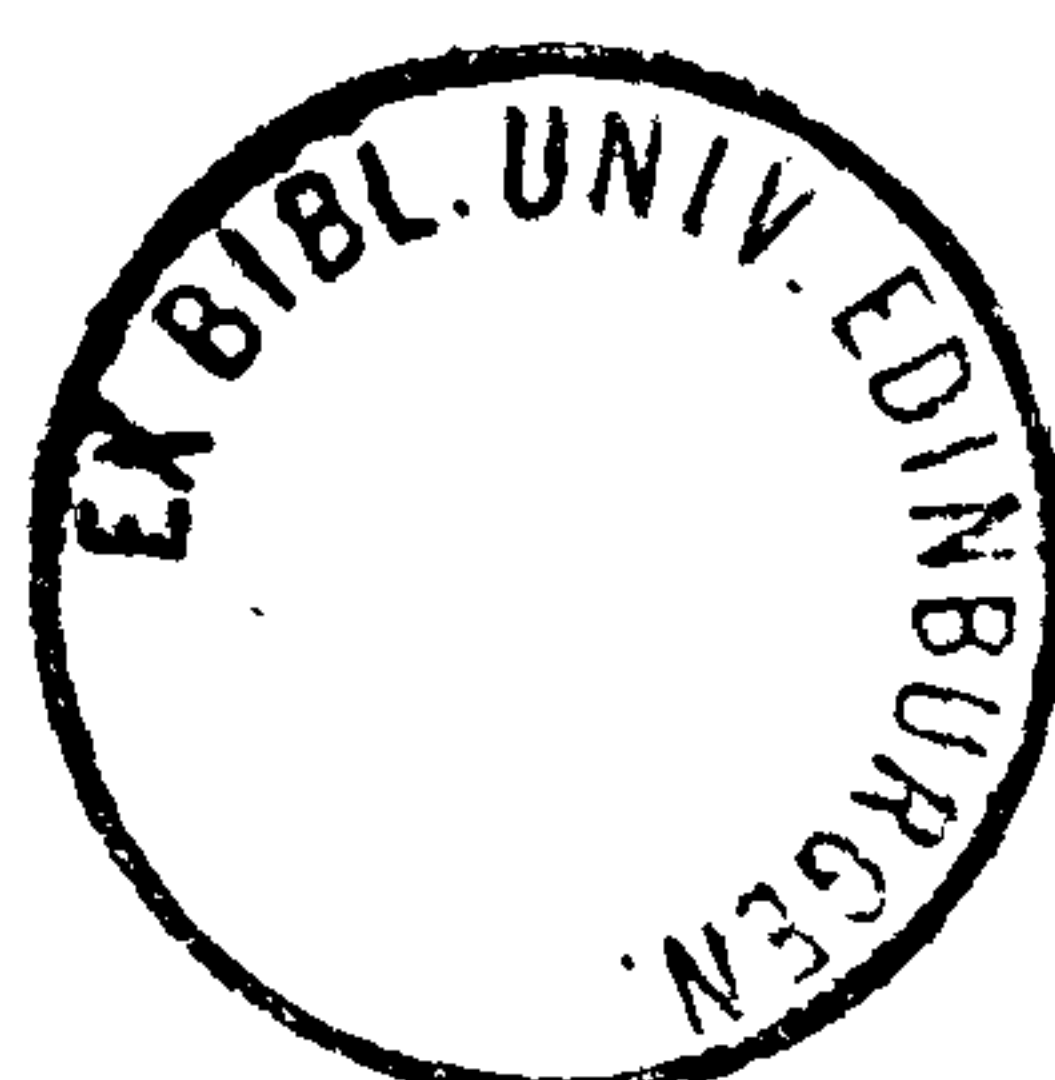
- 38) Henry III, like the kings who followed him, suffered from poor relations with his nobility. His expensive and largely ineffective foreign policy caused financial problems which led to conflict between the king and community. Accusations of bad counsel proliferated, and when, in early 1258, the problems of severe famine, the Welsh rising, and bad relations with France were compounded with a demand for money by the pope, in connection with the Sicilian affair, Henry, virtually bankrupt, was forced into dependence on the barons, who used their position of power to extort reform. It was this crisis which diverted Henry's attention from events in Scotland.
- 39) Stones, Documents, pp.[35-36].
- 40) Henry III had been involved in the settlement, having had an embassy in attendance at the negotiations which led to it, but seems to have exerted little influence on the outcome. (Close Rolls Henry III, 1256-1259, pp.311, 329).
- 41) Duncan, Scotland: The Making of the Kingdom, p.573.
- 42) Stones, Documents, pp.[35-37] (from Close Rolls Henry III, 1256-1259, pp.461-62), and see Duncan, op.cit., p.573 n.24.
- 43) Close Rolls Henry III, 1256-1259, p.477, and Ibid., 1259-1261, p.124.
- 44) Cal. Docs. Scot. I, no.2157.
- 45) Ibid.
- 46) Ibid., no.2198.
- 47) Ibid., nos.2225, 2229.
- 48) De facto, but perhaps not de jure. As Professor Watt points out (Trans. Royal Hist. Soc. 21, (1971), p.20), the new Great Seal, to replace the minority seal, was not obtained until 1262, when Alexander reached the age of 21; nevertheless, power was his to wield before that date.
- 49) Duncan, Scotland: The Making of the Kingdom, p.574.
- 50) Stones, Documents, p.[29].
- 51) Ibid.

- 52) Watt, op.cit., p.15.
- 53) Compare Chron. Melrose, pp.109-10, 115-16 with Chron. Fordun I, pp.297-98 (II, pp.292-93).
- 54) E.g. Cal. Docs. Scot. I, nos.2120, 2121, 2125, 2156.
- 55) Foedera I, p.402.
- 56) Close Rolls Henry III, 1261-1264, p.165; the Treaty of Perth itself also implies this.
- 57) Ibid.; Foedera I, p.422.
- 58) Hacon's Saga, pp.339-340.
- 59) Close Rolls Henry III, 1259-1261, p.165; Foedera I, pp.422, 429; Exch. Rolls. I, pp.18, 24 (e.g.).
- 60) Chron. Fordun I, pp.299-30 (II, p.295); Hacon's Saga, pp.346-47. (For an account of the whole expedition, see *ibid.*, pp.344-367).
- 61) Chron. Fordun I, p.300 (II, p.296). Magnus king of Man had supported Hakon IV in 1263, and had a good relationship with Henry III (Cal. Docs. Scot. I, nos.2046, 2157).
- 62) When Magnus died in 1265 Man was attached to the Scottish crown. It remained in Scottish control for the next decade, but in 1275 it was taken by Magnus's son. He was ousted, but during the Scottish interregnum and the subsequent war, the island was the subject of a tug-of-war between England and Scotland.
- 63) The Norwegians opened talks in 1264, but the Scots were unwilling to negotiate then (Chron. Fordun I, p.301 (II, p.296); Magnus's Saga, p.374). Persuasion by Henry III (Close Rolls Henry III, 1261-1264, p.388), the surrender of Man, and further action by the Scottish king in Caithness and the Isles (Magnus's Saga, pp.375, 377; Exch. Rolls. I, pp.10, 14-20, etc.), induced the Norwegians to try again, and eventually, after three meetings, the settlement was reached.
- 64) Chron. Fordun I, p.302 (II, pp.297-98).
- 65) Ibid. I, pp.303-304 (II, pp.298-99).
- 66) Ibid. I, p.304 (II, p.299).



- 67) Cal. Docs. Scot. II, no.37; Chron. Fordun I, p.305 (II, p300).
- 68) See, e.g. Cal. Docs. Scot. II, no.63.
- 69) Ibid., nos. 120, 122.
- 70) Stones, Documents, pp.[38-41].
- 71) Chron. Fordun I, p.306 (II, p.301). For possible reference to the matter in question, see Cal. Docs. Scot. II, nos. 82, 111.
- 72) Chron. Fordun I, p.305 (II, p.300); Cal. Docs. Scot. II, no.44.
- 73) Chron. Fordun I, p.307 (II, p.302); Cal. Docs. Scot. II, nos.247, 250.
- 74) Stones, Documents, pp.[42-43] (= Cal. Docs. Scot. II, no.250).
- 75) To interpret this statement as looking forward to the marriage of Margaret into Edward's family (Duncan, *op.cit.*, p.593) is surely to apply unjustifiable use of hindsight. No evidence points to Alexander's holding such thoughts in 1284; Alexander III himself did not look to England for a second bride, and neither of his married children sought spouses there. The two countries did enjoy good relations for about three decades in this period, but that can hardly justify the assumption that Alexander's only thought of good for Margaret's future was in alliance with the English royal house. Indeed, the conduct of Alexander's rule seems more to betray a suspicion of English ambitions (note the events of 1258 and 1278, and the refusal to pay Anglo-papal taxation, etc.), which would make such a policy on Alexander's part unlikely.
- 76) Chron. Fordun I, p.309 (II, p.304).
- 77) A.P.S. I, p.424.
- 78) Ibid., pp.421-424.
- 79) Chron. Fordun I, p.309 (II, p.304).
- 80) Ibid.; for more graphic detail, see Chron. Lanercost, pp.304-305.
- 81) Chron. Fordun I, pp.309-10 (II, pp.304-305).

- 82) Chron. Wyntoun (Laing) II, p.266.
- 83) Treaty of Perth: A.P.S. I, p.421.
- 84) Chron. Fordun I, p.293 (II, p.289), and see comment in Duncan, op.cit., p.559.
- 85) See Barrow, Kingdom, pp.137-38, for a table of the justiciars of this period, and the excellent article which precedes it, pp.83-136.
- 86) Laing Chrs., no.8: a record of a justiciar court of 1266, in which Adam, earl of Carrick, took the place of Alexander Comyn, earl of Buchan, justiciar of Scotia "before the full court of Fife and Fotherif".
- 87) As n.85 above.
- 88) Ibid., pp.97-99, and (1255) A.P.S. I, P.426; (1259) Cal. Docs. Scot. I, No.2162; (1262) Ibid., no.2323. This is not intended to be a complete list of references to the justiciar court in this reign: it is merely a list of examples taken from obvious sources.
- 89) Laing Chrs., no.8.
- 90) Ibid.
- 91) St. Andrews Liber, p.346; Inchaffray Chrs., no.103. See below, pp.235-36.
- 92) Exch. Rolls I, pp.1-34 passim.
- 93) Ibid., for most references. 27 sheriffdoms (with the names of their holders) are mentioned.
- 94) E.g. A.P.S. I, p.426; Cal. Docs. Scot. I, nos.2162, 2271, 2272, 2313, 2323.
- 95) E.g. A.P.S. I, pp.425-26.
- 96) See the list of such meetings in A.P.S. I, pp.63-79, and the discussions in Duncan, op.cit., pp.608-11, and Barrow, Kingship and Unity: Scotland 1000-1306, pp.126-128.
- 97) A.P.S. I, pp.420-21, 427-28, 424.
- 98) Chron. Fordun I, p.310 (II, p.304).
- 99) A.P.S. I, p.426 (v.5)





- 100) The following description of the administration of the realm is taken from 'The King's Household Early in the Fourteenth Century', ed. M. Bateson, in S.H.S. Miscellany II, pp.31-43. The tract dates from c.1292, but must reflect the situation as it prevailed in Alexander III's reign. The names of chancellors are taken from the list in British Chronology, p.174.
- 101) He held the benefice for two years after election to the see of St. Andrews (Watt, Fasti, p.226).
- 102) Ibid., p.293.
- 103) Ibid., p.310.
- 104) Robert, abbot of Dunfermline, was accused of malpractice in 1251 (Chron. Fordun I, p.296 (II, p292)).
- 105) Ibid. I, p.297 (II, p.293). Robert, dean of Dunkeld held the seal for the chancellor in 1257.
- 106) For a fuller discussion of the chancellor's financial rôle, see Duncan, op.cit., pp.603-605.
- 107) Chron. Fordun I, pp.297-98 (II, pp.292-93).
- 108) A.P.S. I, p.475.
- 109) Entries throughout the relevant sections of e.g. Close Rolls Henry III and Cal. Docs. Scot. I, show land-holding in both realms, and free and frequent crossing of the border, as one would expect in time of peace.
- 110) E.g. Close Rolls Henry III, 1259-1261, p.489, and see above, p.22 (n.71) relating to the meeting on the border.
- 111) See, e.g., Cal. Misc. Inq. I, no.1208; Close Rolls Henry III, 1264-1268, pp.88-89; Cal. Docs. Scot. I, no.2337; Foedera I, pp.531, 566.
- 112) E.g. Close Rolls Henry III, 1259-1261, pp.379-80; Cal. Close Rolls Edward I, 1272-1279, p.119; Cal. Docs. Scot. II, nos.55, 59. Note also the trade with Wales mentioned in Cal. Docs. Scot. I, no.2155.
- 113) Close Rolls Henry III, 1261-1264, p.165; see also Cal. Docs. Scot. I, no.2355.

- 114) Exch. Rolls I, pp.1-34 passim.
- 115) Close Rolls Henry III, 1264-1268, pp.88-89.
- 116) Ibid., p.367.
- 117) Cal. Docs. Scot. II, no.9.
- 118) Ibid., no.74.
- 119) E.g. Robert I in 1318 (A.P.S. I, p.473).
- 120) Chron. Fordun I, pp.303-304 (II, pp.298-99).
- 121) There is no evidence to suggest that Scotland was retrograde about payment of the normal, everyday papal dues.
- 122) It is interesting to note that a similar idea is found in Lanercost's treatment of his death (pp.116-117), although that work has a rather more negative attitude to Alexander III: all the realm's woes are blamed upon this 'evil' king.
- 123) Examples can be found in concepts such as 'the king's two bodies': see E. Kantorowicz, The King's Two Bodies: A Study in Medieval Political Theology, which takes the discussion of this idea far beyond its realistic application to medieval society.
- 124) ed. A.P. D'Entrèves, Aquinas: Selected Political Writings, p.xxiv-xxv.
- 125) Dante, Monarchia, p.20.
- 126) Aquinas, De Regimine, p.9.
- 127) Ibid., p.17.
- 128) Ibid.
- 129) Thereby placing the law above its creator.
- 130) Aquinas, De Regimine, p.9.
- 131) Dante, Monarchia, p.11.
- 132) Ibid., p.14.
- 133) Ibid., p.8.
- 134) Ibid., p.93.



- 135) Discussions of this tract are to be found in the introduction to the edition cited, and in A.A.M. Duncan, 'Regiam Majestatem: A Reconsideration' in Juridical Review 6, pp.199-217.
- 136) Translation from G. Donaldson, Scottish Documents, pp.34-36.
- 137) A.P.S. I, p.427: Ego Alexander dei gratia Rex Scottorum filius Alexandri illustris Regem Scottorum auctoritate regia ac potestate episcoporum comitum baronumque regni mei consensum atque testimonio clero etiam adquiescente et populo. This wording is very similar to that used by both David I and Malcolm IV in their grants to Dunfermline (Dunfermline Registrum, pp.3,19). It would thus appear to have been a standard form of wording; this in no way reduces its significance, but rather stresses that this required 'consent' was a fundamental element of the traditional status of the Scottish monarch.
- 138) A.P.S. I, p.421.
- 139) Stones, Documents, p.[40].
- 140) Chron. Fordun I, p.297 (II, p.292).

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CHAPTER TWOQUEEN MARGARET, AND THE GREAT CAUSE1286 - 1292<sup>1</sup>

At his death in 1249, Alexander II left Scotland a legacy of constitutional problem in the form of an underage king. Alexander III's legacy in 1286 - an underage queen - has been seen as an unprecedented constitutional disaster. Scotland had survived Alexander III's minority, and by later in the century was enjoying the fruits of strong government and peace. The events following his death, however, were to have less fortunate repercussions, for they heralded almost three decades of factional strife, civil war and intermittent invasion before stable, independent rule was re-established.

It has become customary for historians to blame all the misfortunes which Scotland suffered in the last decade of the thirteenth century on the death of Alexander III. This must in part be due to Bower, who, writing in the fifteenth century, told of a parliament held in 1286, at which there was apparently "bitter pleading regarding the right of succession to the kingdom of Scotland between Robert Bruce... and John Balliol".<sup>2</sup> This reference, the only evidence for such an event, has been used, along with the disturbances caused by Bruce in the south-west of the country in the autumn of 1286<sup>3</sup>, and with the pact made at Turnberry in September of that year<sup>4</sup>, to show that the dissension which led to the Great Cause



started immediately upon the death of Alexander III.<sup>5</sup> Such an assumption is unjustified. A crisis of sorts there certainly was in 1286: Bruce's rebellion is evidence enough of that. However, there is no proof that the community was divided about the identity of the monarch. Alexander III had left an heir, Margaret, 'Maid of Norway', who had been recognised as heir-apparent by the community (including Bruce and Balliol) in 1284. The marriage treaty of 1281 had also made provision for the inheritance of the throne by someone in Margaret's position, should the situation arise. The succession law, as it appears to have been understood in 1286, was plain: unless the late king's widow bore a posthumous child<sup>6</sup>, the heir to the throne was Margaret, daughter of Erik II of Norway. There is no evidence to suggest that her status was challenged.

The April parliament very probably did meet, although there is no record evidence to support the fact. Fordun, a generally reliable source, mentions it<sup>7</sup>, but makes no reference to any pleadings regarding the throne. Bower's account of the wranglings of Bruce and Balliol, if based on anything other than hindsight (its position in Bower's text, after his account of Margaret's life, makes it more likely that it refers to 1290 than to 1286), probably refers to arguments about their rights to the throne in the event of Margaret's death. Such an issue would have bearing on their position in the realm, and it may well be that they each sought to have their rights as heir-apparent recognised, in order to assume supremacy in the regency, in like manner to Alan Durward, who had sought to secure his own position of superiority in 1249 by attempting to knight Alexander III before his coronation. Bruce and Balliol both failed in 1286: no

decision was reached regarding Margaret's heir, but a committee of six guardians - two earls, two barons and two bishops - was elected, and an oath to uphold the rightful heir to the throne was sworn by the nobles.<sup>8</sup> This oath was probably ambiguously worded, in order to allow for the possibility that Yolande would indeed bear a child.

Neither Bruce nor Balliol was included in the guardianship, and it seems that Bruce left the parliament, returned to Carrick, and began to raise a rebellion against this government<sup>9</sup>, from which he felt unfairly excluded. It is in this light that we should see the acts of violence of the autumn of 1286, rather than as a premature attempt to take the throne. The Turnberry Pact, by which Bruce and his associates swore an oath in support of Richard de Burgh, earl of Ulster, co-incidentally referring to the one

"who, by reason of the blood of the lord Alexander, king of Scotland, of happy memory, who last died, will gain and obtain the kingdom of Scotland, according to the ancient customs hitherto approved and used in the kingdom of Scotland"<sup>10</sup>,

has been given unmerited significance for Scotland's constitutional situation. Generally, it is assumed that it implies a Bruce claim to the throne, but the assumption is unjustified. The pact is worded in no more specific a way than any other document referring to the heir to the throne in 1286. One document, for example, dated July 1286, which relates to the payment of dowry to the late Prince Alexander's widow, refers to

"the most high lord the king of Scotland, whomsoever he may be, or the person or persons who occupy his place,<sup>11</sup> or who are, or who shall be governor of the said realm".

This document is not usually regarded as a counter-claim to the throne, and its wording rather supports the contention that what was



at stake was not the throne, but the regency. The Turnberry pact is no more than it purports to be: a bond supporting the earl of Ulster, saving allegiance to the king of England and to the rightful heir to the Scottish throne, that is, Margaret or Yolande's hypothetical child.

Bruce's attempt to overthrow, or fight his way into, the guardians' government, did little more than cause temporary disquiet. The guardians called out the feudal levies of the kingdom<sup>12</sup> to combat the threat, apparently with some degree of success: there is no report of any major action, the revolt appears to have been purely localised, and relative peace seems to have descended fairly quickly. Had there been any general confusion about the succession, it seems likely that either a Balliol rising would have paralleled Bruce's, or that Bruce would have gained more widespread support, and would have proved more troublesome. To claim that Bruce sought the throne in 1286 is necessarily to deny Margaret's right to rule. Such a denial could rest only on the grounds of her sex, since her status as Alexander III's closest heir, failing a posthumous child of the king, was unquestionable. There is no evidence which suggests that the Scots rejected the idea of a queen-regnant. They had agreed to such a course in 1284, and the events of 1286 - 1289 show quite clearly that the community accepted Margaret's position and prepared to meet the challenge presented by it in a mature, organised, and politically assured manner.

By the late autumn it was clear that Yolande would produce no alternative heir<sup>13</sup>, and the guardians who had been elected in April set about the task of sustaining the government on behalf of

Margaret, who was accepted as the 'lady of Scotland'. Despite the Bruce rebellion, these guardians ruled with a good measure of stability. In the summer an embassy was sent to Edward I in Gascony.<sup>14</sup> Its intention was probably to inform him of the turn of events, and to ensure that no threat was posed to Scotland from south of the border. If promises of friendship and protection could be secured from Edward I, and support for government on Margaret's behalf was forthcoming, Erik of Norway would be much more likely to allow Margaret to come to Scotland, and so let Scottish politics run their course, the monarch being resident in the kingdom. It is also possible that the marriage of Margaret to the young Prince Edward was mentioned in these negotiations. Such a bond would certainly have ensured the support of Edward I, and in 1286 it is unlikely that Edward's ambitions with regard to Scotland were as clear as they were in 1289, when the Scots tried to ensure that no deals affecting them were struck between Edward I and Erik II without their knowledge. Above all, the Scots required internal stability in 1286, and freedom from hostile foreign intervention. The appointment of guardians, and the dispatch of embassies to treat with the English king were attempts to obtain that state of affairs.

By the end of the year, then, Margaret was queen of Scots, and only her inauguration was lacking to complete the official commencement of her reign.<sup>15</sup> It is noticeable that by then documents referring to such as "the king whosoever he may be" cease, and although Margaret is not actually found with the title 'queen' until 1289, she was clearly regarded as such. In April 1288 Pope Nicholas IV issued bulls to Scotland regarding the election of Matthew, bishop



of Dunkeld. Among them was one specifically addressed to "Margaret, beloved in Christ, the daughter of our son, the illustrious king of Norway".<sup>16</sup> If it is not accepted that the pope regarded Margaret as queen, then it must be explained why he sent a bull regarding the election of a Scottish bishop to the infant daughter of the Norwegian king! The same pope, in November 1289, sanctioned the marriage of Margaret to Prince Edward. In that bull, the case is stated explicitly:

"It is clearly remembered how... the king of Scots went the way of all flesh, with no male children of his own living, and the beloved daughter in Christ, Margaret, the daughter of our beloved son Erik illustrious king of Norway, the granddaughter of the foresaid king of Scots, succeeded that king of Scots in the foresaid kingdom".<sup>17</sup>

Also, in the early stages of the competition for the crown in 1291 - 1292, it was stated specifically that the discussions concerned the "right of succession in the kingdom of Scotland, now vacant by the death of the noble lady Margaret... of late the queen and lady of that kingdom".<sup>18</sup> Between 1286 and 1290 Margaret was accorded various titles: 'heiress of Scotland'<sup>19</sup>, 'our lady'<sup>20</sup>, and 'damsel of Scotland'.<sup>21</sup> These must all convey the special relationship between Margaret and the kingdom, but the one which was most truly and formally hers, and which was frequently used in 1289 - 1290, was 'queen'.<sup>22</sup> There was no doubt in the minds of contemporaries that she was the rightful monarch of Scotland. Government by the "guardians of the kingdom of Scotland, elected by the community"<sup>23</sup> continued on her behalf, and gives every indication of having pursued conscientiously the normal, every-day affairs of government. Edward I treated the guardians in the same way that he would have treated a monarch, communicating with them frequently

regarding such routine business as border justice and mercantile affairs.<sup>24</sup> The country appears to have proceeded with its business in a remarkably normal fashion.<sup>25</sup>

However, despite its apparently ordinary appearance, the guardians' rule was weak, and subject to much disobedience. The treaty of Salisbury<sup>26</sup>, a tripartite agreement involving Scotland, England and Norway, signed on 6 November 1289, was designed to achieve a situation in which Margaret would be obeyed "as a lady, a queen, and the heir of the foresaid kingdom of Scotland, and that she should be ordained and praised just as other kings are in their kingdoms". It also made provisional arrangements about her being sent to Scotland. On the same day as that treaty was signed, Edward I issued a plea to the prelates, magnates and the whole community of Scotland, to obey the guardians to whom rule was delegated on behalf of Margaret, "lady and queen".<sup>27</sup> The urgency with which the guardians sought Margaret's arrival in Scotland was understandable: she could then be inaugurated, so allowing her personal reign to begin officially, and the guardians' government, then ruling actually in her name, would have that added air of legality which might command greater respect in the kingdom.

At the same time, negotiations were proceeding with regard to the queen's marriage.<sup>28</sup> Edward I, certain that Margaret would be married to his own son, had already petitioned the pope for a dispensation allowing the marriage.<sup>29</sup> As noted above, these negotiations may well have been initiated soon after Alexander III's death, and although the treaty of Salisbury stated that Margaret was to come to Scotland free of any marriage contract, it seems probable



that the Scots were in some haste to secure the marriage. There is no contradiction in that. In the treaty of Salisbury the Scots' demands were made in the interests of self-determination: safeguards were taken against the possibility that Erik would make an agreement about the marriage which was prejudicial to Scottish interests. This in no way conflicted with their desire that a marriage agreement should be reached as soon as possible.

The Scots' wish for the accomplishment of a marriage treaty is indicative of their pressing need for strong government. With Margaret married to the heir to the English throne, Edward I would be obliged to offer help and support to those who governed on her behalf. Even as early in the proceedings as Salisbury, that support had been forthcoming in the form of Edward's order for obedience to the guardians' government. This is a much more realistic explanation for their haste than the suggestion that the guardians "set about finding a king through the marriage of the kingdom's heiress".<sup>30</sup> The finding of a king was not their aim. Government by guardians would have continued in any case, for an infant king was of no more use to the Scots than an infant queen. A major threat to stability was the presence of a powerful and ambitious neighbour, and therefore, by supporting the plan that Margaret should marry the heir to the English throne, the Scots at once averted a potential danger, and found a new and useful ally. There was no question of Margaret being regarded as unfit for rule. She had been accepted as heiress in 1284, and long before Salisbury was signed she was quite unequivocally called 'queen'.<sup>31</sup> The Scots' diplomacy of 1288 - 1290 was aimed at finding English support, not an English king. This

interpretation of the motives behind the Scot's desire to achieve the marriage is supported by a letter which they wrote to Edward I in March 1290, in which they declared that they appreciated the good done for Scotland by Edward I and his predecessors, and indicated that the proposed marriage, of which they had heard rumours, would be agreeable to them if certain conditions, which on that occasion they left unspecified, were met.<sup>32</sup> This letter was clearly intended to solicit Edward's favour, and it provided the basis for the negotiations regarding the marriage itself.

The Scots had much to gain through the marriage of Margaret to Prince Edward: in the short term, relief from potential hostile intervention and support against other troubles; in the long term, the benefits of peace between the two kingdoms, which could be brought about by a joint monarchy. They also had much to lose: perhaps the independence of their kingdom. They were well aware of this danger, and so in March 1290 the Scots made it clear that their acceptance of the proposed marriage would not be unconditional. When the treaty was finally signed at Birgham on 18 July 1290<sup>33</sup>, it was an elaborate attempt to protect all Scotland's liberties, both political and legal, whilst arranging for the marriage of Margaret, "the heir and queen of the kingdom of Scotland", to Edward, the heir to the English throne. The "rights, laws, liberties and customs of the kingdom of Scotland, in all things and over the whole of that kingdom and its marches" were to be perpetually observed. All ecclesiastical elections were to be made within the kingdom, homages and services relating to the kingdom of Scotland were to be taken within that kingdom, justice towards her subjects was to be performed only within



that kingdom, taxes, hosts and suchlike were only to be imposed under the circumstances in which a king of Scots could impose them, and no parliaments for internal affairs were to be held outwith the kingdom. Perhaps it was a futile attempt, but the Scots were trying to withhold all concessions to total union or incorporation, whilst nevertheless recognising that their queen would probably be resident in England. That the rights of neither kingdom were to be increased or decreased must have been a forlorn hope. Even although the Scots' conditions had apparently been met, the treaty held qualifications such as

"saving the right of our said lord [Edward I], and of any other whomsoever, which has pertained to him, or to any other, in the marches or elsewhere... before the time of the present agreement, or which in any right way ought to pertain in the future".

Whilst not entirely vitiating the safeguards for independence, the deliberate vagueness of this statement, in view of previous and future claims of English supremacy, must have been recognised to be a loophole in the Scots' case, which they would undoubtedly rather have seen omitted. However, the Scots had made their stand. They had pushed their policy through almost to its conclusion, and had brought about a treaty which would have married their queen to the English throne. They thus gained the political support which they required, endeavoured to maintain their kingdom's independence and tried to affirm that the Scottish crown would be held by the queen, rather than by any husband who may have been found for her. But the treaty was never fulfilled. As requested, Erik II arranged for Margaret's passage to Scotland, and in late September 1290 she left Norway on an English ship.<sup>34</sup> In early October Bishop Fraser of St. Andrews wrote to Edward I, telling him of the rumour that 'our lady the queen' was

dead, "on which account the kingdom of Scotland is disturbed, and the community distracted".<sup>35</sup> In keeping with the style of recent relationships between the two countries, Fraser asked Edward I to help keep the peace, should the rumours prove to be true, so that those in authority might stand by the oath which they had taken in 1286 (although then of less wide significance), to establish on the throne the rightful heir. In 1286 the succession had been obvious. In 1290, on the death of Margaret, it was not. Scotland had survived one crisis only to enter another, far more serious.

The situation in Scotland in late 1290, when the death of Queen Margaret became widely known, must have been particularly difficult. There was no obvious choice of heir, and although Bishop Fraser clearly thought in terms of a Balliol king<sup>36</sup>, the community seems to have been far from unanimous on the matter, and civil war must have been imminent. Fordun's picture is of friendly, if unavailing, discussion amongst the nobles, but the reason that he gives for their indecision,

"because they justly feared the power of the parties, which was great, and greatly to be feared; and partly because they had no superior who could, by his unbending power, carry their award into execution, or make the parties abide by their decision"<sup>37</sup>,

probably reflects a truer image of the tension which existed in the country. The Processus of Baldred Bisset mentions the "dissension about who by right ought to succeed"<sup>38</sup>, and the record of the 1321 Anglo-Scots negotiations talks of "dangerous contention" at this time.<sup>39</sup> The letter which Bishop Fraser wrote to Edward I in October



1290 makes note of the warlike preparations which were being made by Bruce and others, and other documents, such as the charter by Balliol in which he styled himself "heir of the kingdom of Scotland"<sup>40</sup> and the document usually known as 'The Appeal of the Seven Earls of Scotland'<sup>41</sup>, which apparently was intended to prevent Balliol hastily being made king, show the rapid formation of opposing factions in the country in support of the claims to the succession by Balliol and Bruce respectively.

Beyond this, very little of the Scottish situation following Margaret's death can easily be reconstructed. Sources are sadly lacking until March 1291, by which time Edward I had become involved. Only conjecture can explain why the Scots found themselves unable to choose a king, and in what manner Edward I took his place as judge of the matter. It seems probable that the situation in Scotland was such that, as suggested by the narrative sources, the opposing parties were so evenly matched, and the remaining guardians<sup>42</sup> so weak, that no coercion could be applied to ensure that a decision would be obeyed.

The nature of the involvement of Edward I must also remain a mystery, unless new evidence is produced. That the Scots were so naive as to invite him to assume a position of more than a simple arbiter is scarcely believable. If such an approach was made, it is arguable that it was seized upon by Edward to further the imperialist ambitions held by his dynasty towards Scotland; a certain show of force, followed by demands for recognition of his superiority, were sufficient to establish him in a strong position, given the inability of the Scots either to act independently or to withstand his power.

Edward I may have received no invitation to intervene, but imposed himself on the disorganised Scots, possibly with an initial air of neighbourly goodwill, or perhaps making his ambitions clear from the start. He may indeed have received an invitation to judge a case, but the clear constitutional implications of such a move make it improbable, and it should be borne in mind that Fordun states specifically that the Scots had no superior to whom they could look for judgement. The assurance given by Edward on 12 May 1291, that although the Scots came

"at our request... to Norham, to treat of matters touching the foresaid realm, we wish and grant that their having come south of the Tweed, can not turn to their prejudice nor to their realm's"<sup>43</sup>,

may be a hint that Edward offered his services as judge in the matter, on a 'one-off' basis, with a specific agreement that no prejudice would redound to their present and future status. If so, it was an agreement which was indeed naively made.

It has been suggested that Edward I had no intention of coercing the Scots into any sort of unexpected subjection, and that he acted uprightly on the strength of his beliefs. It is claimed that the shows of force which he made were in no way connected with the demand for recognition of superiority, and that the Scots were unjustified in later claiming that the subjection was void because it had been forced upon them.<sup>44</sup> This view is surely too one-sided: there is evidence which suggests that the Scots were to some extent hoodwinked in 1291. The Scots were in a very weak and divided position. Thus, when we read of a fleet "keeping command of the sea near Holy Island, lest food should come into Scotland", and which was to stay "at sea around Berwick and Scotland to keep the peace"<sup>45</sup> in



the early months of 1291, we must, in the absence of any other explanation, assume that Edward was preparing for the eventuality of resistance and, therefore, that his plans were of a nature which was likely to arouse resistance in the Scots. His summoning of feudal levies to Norham<sup>46</sup>, to coincide with the early days of the Great Cause, and the payment of "divers crossbowmen, foot archers and the fees of their constables"<sup>47</sup> for the same period, suggests rather more than the "simple escort" which has been ascribed to Edward by Professor Stones and Dr. Simpson.<sup>48</sup> A naval blockade and a sizeable body of troops on the border must have been enough to show the Scots that Edward was serious about his intentions. It seems unlikely that those intentions were merely to 'keep the peace', as Fraser had asked in October 1290: a naval blockade would not have been effective for that purpose. The peace which he wished to keep was King Edward's. That these arrangements were made by March 1291 implies that by then, despite the apparent frankness of the assurance given in May, Edward fully intended to extort an admission of his superiority from the Scots. Indeed, even as early as May 1290 he had granted the Isle of Man, then a Scottish possession, to Walter Huntercombe.<sup>49</sup>

It is, of course, unlikely that the Scots were totally unaware of these arrangements, and that they succumbed to them suggests that they were unable to resist. From such a position they were exceedingly unlikely to have requested Edward's intervention. His statement that he invited them to Norham<sup>50</sup>, along with the lack of any extant invitation to Edward from the Scots (a document which it would surely have been in Edward's interests to preserve along with the other proceedings of the case), indicates that his intervention

was made of his own volition, and was an attempt to take advantage of the weakness of the Scots in order to subject them to his own rule. The invitation to Edward, which figures only in non-contemporary narrative sources, may well be a story concocted by the Scots at a later date to prove their own naive innocence, and Edward's treachery. It is noteworthy that the Processus of Baldred Bisset, written before any of the propaganda of Bruce's reign, specifically states that there was no invitation to Edward, who was "intervening, as it were, without having been asked".<sup>51</sup> The earliest narrative source which mentions an invitation is Guisborough's chronicle<sup>52</sup>: even it was written after 1300, and was composed not from original sources, but from another compilation.<sup>53</sup>

Edward's claim to rightful overlordship of Scotland went back many generations. Its justification, however, is open to question, and it seems unlikely that he genuinely believed in the straightforward feudal inferiority of the northern kingdom, given his failure to pursue that right at earlier opportunities. He could have claimed the wardship of the Maid of Norway after the death of Alexander III, and, if his belief in his crown's right to feudal superiority over Scotland was genuine, by failing to claim that wardship he was certainly being "neglectful of a duty laid on him by tradition, and even perhaps by the terms of his coronation oath".<sup>54</sup> In all probability the intention of Edward I in 1291 was to take advantage of the weakness of the neighbouring kingdom to establish himself as the adjudicator of the disputed succession to its crown, and thus, in fulfilment of a long-standing dynastic ambition, to become its overlord. This does not imply the ascription to Edward I



of any villainous character defect: any medieval monarch in his position would have taken a similar course of action.

Of course, that no formal invitation for Edward to intervene was issued by the community of Scots does not imply that none of the Scots involved had suggested, or would welcome such a move. The stories told by some later chroniclers that Edward tried to impose his will on Scotland by offering the crown to Bruce, if he would hold it as Edward's vassal<sup>55</sup>, may contain some kernel of truth. There is a considerable body of evidence which suggests that Bruce was manoeuvring in any way which would increase his chances of winning the throne. Immediately prior to the Great Cause he was attempting to gain possession of the lands of Garioch, which, having been the possession of David earl of Huntingdon in the late twelfth century, had been divided between the descendants of Earl David's three female heirs, Bruce, Balliol and Hastings. The agreement between Bruce and Sir Nicholas Biggar, who was to bring court action to recover for himself Balliol's and Hastings' shares of the land, which he simultaneously surrendered to Bruce<sup>56</sup>, would seem to have been a plot to increase the Bruce power and influence in Scotland, and perhaps to provide a precedent in favour of the unity of the kingdom which, according to one argument, should have been divided between Bruce, Balliol and Hastings.

Probably less than a year later, the 'Appeal of the Seven Earls of Scotland'<sup>57</sup> was issued, in an attempt by the Bruce faction to block any elevation of Balliol to the kingship. It contained an appeal to the crown of England for assistance in the affair, and may well indicate that had it been left to the community of Scots to

decide, Balliol would have been chosen as king. It was therefore in the Bruce faction's interest that Edward I should become involved in the case.

Other evidence for Bruce's involvement in bringing about the English intervention lies within the course of the Great Cause itself. Firstly, there is the claim of Florence, count of Holland, and his agreement with Bruce. Florence's claim<sup>58</sup>, that David, earl of Huntingdon, from whom Bruce, Balliol and Hastings all claimed their descent, had resigned his right to the throne, thus rendering Florence's own descent (through a sister of Earl David) the most direct, was backed up only by the flimsiest of evidence, and it is strange that it was given any credence. Indeed, if, as seems likely, there was no authentic evidence for the supposed resignation, Florence cannot have expected his claim to have been taken seriously. It is possible that Florence, who for some time had been in negotiation with Edward I regarding the marriage of his son to Edward's daughter<sup>59</sup>, was picked upon by Bruce as a likely obstacle to the Balliol cause. A claim entered by him would not, in the circumstances, be blocked by Edward, and by its very nature it was a stumbling block to Balliol's ambitions. The idea that Bruce in some way promoted Florence's claim is supported by the fact that Bruce and Florence apparently never contested each other's claims, and by the agreement made between them in June 1292<sup>60</sup>, whereby if either of them were awarded the throne, the other would be given one third of the royal lands, in return for knight-service. Thus, even if Bruce's own cause failed, which it was bound to do if Florence's succeeded, the Bruce family would still hold vast influence in Scotland: Carrick,



Annandale, Garioch and this extra portion. The 'Appeal of the Seven Earls' also testifies to some relationship between Bruce and Florence. Although it was clearly Brucian propaganda, amongst its other complaints was that the Count of Holland had been unjustly deprived of the earldom of Ross, and that he was the rightful heir to the kingdom, failing the heirs of Earl David.

This evidence supports the idea that even before the Great Cause began, and throughout the course of it, Bruce was scheming to ensure that his family gained the maximum amount from the situation, and that his attempts to defeat the Balliol threat to his position may have included his support for the involvement of the English crown and the claim of the count of Holland. It is conceivable that the claim of Erik of Norway should be seen in the same light. The ambassadors of King Erik had previously been in England, not with the intention of claiming the Scottish throne, but to press for the payment of the dowry of Margaret, daughter of Alexander III.<sup>61</sup> When they returned to Edward's court in June 1292, this was still part of their brief, along with their submission of Erik's belated claim to the kingdom<sup>62</sup>, as ascending heir of his daughter, Margaret, which appears to have been a mere after-thought. The ambassadors clearly knew very little about it, for when questioned by the court regarding it, in November, they retorted that they must consult Erik before answering.<sup>63</sup> They would thus seem to have been but poorly equipped to press the claim. The only interest which might have been served by this weak claim was Bruce's, who required at all costs to hinder the Balliol cause. Even Erik seems to have been half-hearted about it, having taken no action between June, when it was entered, and

November, when it was examined. Apparently he expected to gain nothing from it, other than perhaps a greater forum in which to air his grievance about the money owed to him by the Scots. If, as seems possible, Bruce was also involved with this claim<sup>64</sup>, it shows him to have continued scheming, almost right to the end, in order to influence the course of the Great Cause in his favour.

Thus Bruce's involvement in the Great Cause may have been more complex than has previously been recognised. His eagerness to defeat the cause of Balliol, no doubt to be seen in his reported gathering of troops with his allies the earls of Mar and Atholl as early as October 1290<sup>65</sup>, and his position as a prominent English noble, both lead, along with the other evidence, to the conclusion that he may well have been one of the main instigators of the English involvement in the problem of the succession to the Scottish throne. Bruce, of course, although one of the protagonists of the affair, was by no means the only competitor to be an English vassal, and the evidence for his leanings towards English intervention implies that there may have been a considerable number of Scots who, in attempting to avert the likely elevation of Balliol to the throne by the majority of the community, looked to England for assistance. Edward probably installed himself as adjudicator without a formal invitation, but that by no means implies that all Scots opposed his action. Indeed, most of the claimants were subjects of the English king, and would not object to his intervention, as is shown by their readiness (in contrast to the community of Scots' reluctance) to accede to Edward's demands.



If we now return to the days between the death of Margaret and the opening of the Great Cause, it is possible to suggest a conjectural course of events. The situation of near-war between Bruce and Balliol prompted a vague approach to Edward I by Bishop Fraser, a Balliol supporter, asking for Edward's help to keep the peace until the king (Balliol) could be established on the throne. Following this, the Bruce faction, unwilling to be so promptly suppressed, began to manoeuvre to hinder Balliol's elevation to the kingship, and to promote their own interests. The attempts to gain the Garioch, the 'Appeal of the Seven Earls', and encouragement of semi-spurious claims were all symptoms of this policy, which was upheld throughout the case. Scotland was hopelessly divided, and Edward I, having been approached by both sides for assistance, decided to intervene, and use the situation in order to press the long-standing claim of the English kings to overlordship of Scotland. He then invited the Scots to a meeting of the English parliament at Norham<sup>66</sup>, with the intention of stating his claims and his terms for the settlement of the dispute. The Scots, being aware of his military arrangements, and doubtless glad to find some way out of their dangerous predicament, attended his summons. He had anticipated their desire to discuss their answer to his claims, and had planned an adjournment for the purpose, by the end of which the troops which he had called to service were also in attendance at Norham. Although not a large force, they would pose a sufficient threat to the Scots to convince them that any outright opposition was unwise. The assurance by Edward I that the Scots would suffer no prejudice by coming south seems first to have been issued with a safe-conduct on 9 May, the day

previous to Edward's proposition of his overlordship. This assurance, although rather meaningless, being mere common form, was neither disregarded nor broken. On that first visit, the Scots did indeed suffer no prejudice, and on subsequent visits the situation had changed, since the claimants who entered the case had accepted the claims to overlordship, had sworn fealty, and were thus legitimately treated as vassals.

The events of the following eighteen months, the course of the Great Cause itself, are less difficult to reconstruct. The records of the court, which were kept in detail by Edward's officials, exist in various forms, and from them a fairly accurate narrative of the proceedings can be compiled.

On 10 May 1291<sup>67</sup> the assembly met for the first time, and it was explained that Edward wished to settle the dispute, for which purpose he required the Scots to recognise his overlordship. The Scots replied that they required time to discuss this demand, and probably on the following day were granted an adjournment of three weeks. The assembly reconvened on 2 June, by which date the English soldiery were in attendance, and the Scots gave their answer about the question of overlordship. The official English record states merely that the Scots had nothing with which to deny the claims, but the answer actually given was that, lacking a king, the Scots themselves could not reply to such a claim, about which they, although not wishing to doubt Edward's belief in it, knew nothing. In cavalier fashion this reply was ruled ineffectual, and the case continued on the assumption of Edward's superiority. Ten of the competitors then entered their claims, and met the requirement of acknowledging Edward's overlordship and jurisdiction.



Having dealt with the main preliminaries, it was then possible to decide on the procedure which the court would follow. Probably on 3 June it was decided that the two main contenders, Bruce and Balliol, should each appoint forty auditors<sup>68</sup>, which number would be augmented by an additional twenty-four, nominated by Edward. The auditors were to hear the cases put forward by the competitors, and report back to the king. On 4 June the competitors agreed that Edward should have sasine of Scotland, so that, actually possessing it, he could formally bestow it upon the successful candidate. After the naming of the auditors, on 5 June, the place and date of the next meeting of the court were decided upon, and over the following few days the passing over of the rule of Scotland to Edward was completed. Castles were given up to his custody, a new chancellor was appointed, an Englishman was nominated to join the remaining Scottish guardians, and the king's peace was proclaimed. This process was complete by 13 June, on which date an adjournment was announced until 12 August. During the next two months oaths of fealty to Edward were sworn by most prominent Scots, and further arrangements were made for the administration of Scotland until the end of the interregnum.

On 3 August the court reconvened in Berwick, the written petitions of twelve competitors (the thirteenth was Erik of Norway, who did not present his case until later) were produced, and after some discussion the case was again adjourned until the next parliament met, in Berwick, on 2 June 1292. During that long adjournment Edward and the competitors were at work concerning the case. For instance, in November two inspeximus of the alleged

document supporting the claim of the Count of Holland were issued, Edward I applied unsuccessfully for papal confirmation of the submission of the competitors, and doubtless much activity took place in attempting to prove cases, destroy them, and ascertain their validity. However, when eventually the court reconvened in June 1292, it appears that the long spell of activity had achieved little. According to reports of the auditors who heard the pleadings of the competitors, difficulties had arisen which added to the complexity and length of the proceedings, and Edward therefore ordained that a decision should first of all be made between Bruce and Balliol, and that the other claims be postponed until thereafter. At the beginning of June Erik of Norway presented his claim. There was discussion about what laws should be used in such a case, and it was decided to ask for foreign opinion. On 14 June the agreement between Florence and Bruce was sealed. Pleadings then took place between Bruce and Balliol, and by the end of June it was agreed that enough had been heard to enable a decision to be made between them. At the beginning of July documents attesting Edward I's right to hear Scottish cases in England, notwithstanding his 'no prejudice assurance' of May 1291, were issued, and another adjournment seems then to have taken place until October 1292.

When the court resumed on 14 October there was more discussion of the laws to be used in the case, and possibly further pleading between Bruce and Balliol. At last, on 6 November, it was decided that Bruce's claim could not stand up against Balliol's, and the court then went on to judge the rest of the claims against that of Balliol. Bruce then submitted a second claim, that the kingdom, as a



fief of the English crown, was partible, and accordingly sought a third share of it "minus the name and dignity of king". More discussion took place regarding the question of partibility, which idea was finally rejected. On the following day, Bruce resigned his rights to the kingdom to his son Robert, probably to ensure continuity of the family claim to the "name and dignity of king" in future generations. The nearness of degree to the common ancestor was no longer of importance after the decision of 6 November, and so Bruce's resignation in no way weakened the claim. Interestingly, the Robert Bruce who received the claim resigned his rights to the earldom of Carrick to his son Robert only two days later, in a document addressed to "the magnificent and serene prince, the lord John, by the grace of God illustrious king of Scots".<sup>69</sup> It must be assumed that the eventual outcome of the case was by then a foregone conclusion, but it is nevertheless interesting to find such a clear recognition of Balliol's victory from the Bruce family even before that victory had taken place. The next few days saw the treatment of other pleas. Claims were submitted, discussed, withdrawn, and adjournments were given to allow several competitors to gather more information, and to submit written pleadings. Eventually, on 17 November, the final judgement was given. Eight claims had been withdrawn, two were declared void because they had not been pursued, and the judgement of the court was given against two more. The one claim to survive was that of John Balliol, who was declared to have the right to the kingdom. Orders were given for the sasine of the kingdom and its castles to be transferred to him, and the dates for his coronation, homage and fealty were arranged. On 20 November he

swore fealty to Edward I; ten days later, on St. Andrew's Day, he was inaugurated at Scone; and on 26 December he swore homage to Edward I for the kingdom of Scotland and for all his English lands. Scotland once more had a king, of sorts.

The main issues raised by the events of October 1290 to December 1292 were the law of succession to the throne in Scotland, the type of law to which appeal should be made in the settlement of such a dispute, and the status of Scotland: was it an independent kingdom or a vassal state, and of what significance was that question in the Great Cause? These are important issues, fundamental to the nature of Scottish politics, and to the character of the Scottish kingdom and kingship in that period.

The pleadings of the Great Cause, stressing as they do the lineage and pedigree of each claimant, are ideal sources from which to gain an idea of the contemporary native view of the succession system. The answers of the foreign lawyers to the appeal of Edward I also provide contemporary opinion regarding the case.<sup>70</sup> Other narrative sources, such as Fordun, give an idea of how, at a later date, the system was deemed to have worked in the 1290s, although such sources tend to be brief, are rarely unbiased, and are sometimes contradictory.

Despite arguments to the contrary, it is unlikely that the claims of the count of Holland, John Hastings, Erik of Norway, and most of the other competitors were ever seriously entertained. It seems probable that only Hastings, Bruce and Balliol actually believed that they might gain by their claims. The others were



Alpin

Kenneth I  
(843-858)

Donald I  
(858-862)

Constantine I  
(862-877)

Donald II  
(889-900)

Malcolm I  
(943-954)

Dub  
(962-966)

Kenneth II  
(971-995)

Kenneth III  
(997-1005)

Boite

Macbeth  
(1040-1057)

Gillecomgain  
(1)

Gruoch  
(2)

Iulach  
(1057-1058)

Thorfinn  
E. of Orkney

Duncan I  
(1034-1040)

Ingibjorg  
(1)

Malcolm III  
(2)  
(1058-1093)

Margaret

Duncan II  
(1094)

Edgar  
(1097-1107)

Alexander I  
(1107-1124)

David I  
(1124-1153)

Earl Henry

Earl David

Malcolm IV  
(1153-1165)

William  
(1165-1214)

Alexander II  
(1214-1249)

Alexander III  
(1249-1286)

Margaret  
= ERIK II

Margaret  
(1286-1290)

Marjorie

Isabella

Ada

Margaret

Aufrica

Henry

Margaret

Isabella

Ada

William  
Count of Holland

Alicia

Richard  
Comyn

Ermenegarde

William  
Ros

Patrick  
E. of Dunbar

William  
de Vesci

William

PATRICK  
GALITHLY

Devorgilla  
OF ANNANDALE

Henry

Florence

Henry

John  
of Badenor

John  
COMYN

Robert  
Ros

Patrick  
E. of Dunbar

William  
DE VESCI

Aufrica

Agatha

Allanora  
= JOHN COMYN

JOHN  
BALLOL

JOHN  
HASTINGS

William

ROBERT  
PINKERNY

John  
COMYN

NICHOLAS  
SOUTIES

WILLIAM  
ROS

PATRICK  
E. OF DUNBAR

Agatha

ROGER  
MANDEVILLE

FLORENCE  
COUNT OF HOLLAND

William

ROBERT  
PINKERNY

John  
COMYN

William

ROBERT  
PINKERNY

John  
COMYN

Names underlined denote kings (with dates).

Names in CAPITALS denote claimants in 1291-1292.

- - - - - denotes illegitimacy.

simply expressing "the medieval fondness for controversy and litigation, and a desire to appear in the public eye".<sup>71</sup> Six of the claimants had illegitimate descent<sup>72</sup>, an indisputable barrier to succession in the thirteenth century, and of the remaining seven, only two were to be honestly considered. Robert de Pinkeny claimed to be descended from a younger sister of David, earl of Huntingdon (through whom Bruce, Balliol, and Hastings claimed), and had no real or supposed document such as Florence's resignation with which to bolster up his case. John Comyn of Badenoch held his descent from four generations further back in the royal line beyond Earl David, and so was in no situation to contest the more immediate pedigrees of the others. It seems unlikely that the Scots would have seriously contemplated the claim by ascent from Erik II, if for no other reason than its political consequences. John Hastings, too, cannot have been seriously heard. Had it not been that in the latter part of the proceedings he and Bruce fought on common ground, it is unlikely that his claim would have received the attention which it has, for by then it had been well established that a kingdom, unlike a lesser fee, was not partible. It is noteworthy that he, among the majority of claimants, was ignored in the narrative accounts of the dispute. The partition of the kingdom was a course of action which is unlikely to have been accepted by the Scots, or considered by Edward I, who did not pay a great deal of attention to Hastings.

The case for Florence, count of Holland, was equally unpromising. Notwithstanding the attention paid to him at the time, and the arguments put forward on his behalf since<sup>73</sup>, it is inconceivable that he could have had any chance of winning his case,



or that he seriously expected to. Like the others, he was merely seeking publicity and, as suggested above, his involvement may have been instigated by Bruce for political motives. "Purely formal, not to say frivolous"<sup>74</sup> is a fair comment regarding Florence's claim. A resignation such as Florence claimed had taken place would have been an event of great national importance, and as such would have been widely known and discussed amongst the nobility of the realm. There would have been other record of it than the instrument of resignation itself, and it would have been remembered by those of the kingdom who were removed from that period by only one or two generations. It must have been known that Florence could provide no authentic evidence to support his claim, which was thus of no value.

The conduct of the Great Cause itself is conclusive evidence of the contemporary opinion that Florence's claim was insupportable. When the order was given to appoint auditors, it was Balliol (with his brother-in-law, Comyn) and Bruce who chose most of them, none of the other competitors sharing in the task. It thus seems that even then the court recognised that its judgement would be given either to Bruce or to Balliol. One year later the case was no nearer completion, and when it became apparent that the process was too involved for a conclusion to be reached within an acceptable period, it was decided, on 2 June 1292, to shorten the proceedings by first deciding between Bruce and Balliol, and then judging the victor against all the others. At this stage, the only logical step, had any credence whatsoever been given to Florence, would have been immediately to establish the validity of his claim, which, had it proved legitimate, would have annulled the claims of Bruce, Balliol,

Hastings and Pinkeny. Since the remaining eight were weaker cases, in effect, the establishment of Florence's right would have settled the matter. If Florence had been regarded with any suspicion of belief, therefore, the decision made on 2 June 1292 was, at best, ill-advised. That Edward decided to judge first between Bruce and Balliol was a straightforward recognition that the settlement of the dispute lay between those two men only.

The law by which the claims of Bruce and Balliol should be assessed was not well defined. The marriage settlement of 1281<sup>75</sup> and the entail of 1284 are the only practical expressions of the law as it stood in the late thirteenth century, and whilst they are clear enough, they state it no further than the obvious principles of primogeniture:

"Since it has pleased the Most High that our lord Alexander, eldest son of [king] Alexander, has gone the way of all flesh with no lawful offspring surviving directly from the body of the said king, we bind ourselves and our heirs straitly by the presents to our said lord king and the heirs descended from his body directly or indirectly who by right ought to be admitted to succeed to him and in the faith and fealty by which we are bound to them we firmly and faithfully promise that if our said lord king happens to end the last day of his life leaving no lawful son or sons, daughter or daughters of his body or of the body of the said Alexander his son, we each and all of us will accept the illustrious girl Margaret, daughter of our said lord king's daughter Margaret... and lawful offspring descended from her, as our lady and right heir of our said lord king of Scotland."<sup>76</sup>

The king's sons succeeded the king. Failing them, their sons became the king's heirs, and, failing any direct male descendents, females were admitted: the king's daughter, failing whom, her children, male in preference to female, became eligible to succeed. It was according to that understanding of the law that Margaret had been



accepted as heir in 1286, when it became known that she was the only heir of Alexander III. Upon her death, a more complex situation arose, since there was then no direct descendent of the monarch.

At that point, collateral relationships became involved. Beyond the elementary principle that the king's son inherited before his daughter, however, no statement of the law of Scotland concerning collaterals existed. There being no descendants of Margaret, it was necessary to look back in time, to the most recent monarch of whom a descendant could be found. By going back four generations it became possible to find an heir in direct line. The living male representative of the eldest of the daughters of the younger brother of King William the Lion, David, earl of Huntingdon<sup>77</sup>, was her daughter's son, John Balliol. David's second daughter had left a son, Robert Bruce, and the third daughter had also left a son, whose son was John Hastings. Strict adherence to the principles of primogeniture would look first of all to the eldest daughter and her descendants; only if they failed would other collateral lines be considered. However, there was at this point some controversy. Common law, by which some of the claimants insisted the system was regulated, stated that sisters should inherit together, the eldest carrying, by right of ainesse, the title or dignity to her husband or son. This rule had been applied, for instance, in the division of the earldom of Chester earlier in the thirteenth century. Thus common law would have given the title of king to Balliol, but would have divided the land of the kingdom between Balliol, Bruce and Hastings. It was on this principle that Hastings made his claim. However, it was almost universally accepted that Scotland, as a

kingdom, could not be treated as were lesser fees, and was impartible. Common law was therefore inapplicable, and the law to be applied was still in question. The most consistent view of the Parisian lawyers whom Edward consulted in the case was that if no Scottish custom existed, then English custom should be invoked.<sup>78</sup> But no English custom existed which was directly applicable to this unprecedented case, and English law was as ill-defined as its Scottish counterpart.

The crux of the matter lay in the preference for line or degree. Balliol's argument was supported by the contention that "the eldest-born daughter alone is entitled to succeed in an indivisible feu".<sup>79</sup> This inferred that Bruce's mother could have had no right of inheritance to pass on to her son. Such a view of the succession also implied that the right of inheritance belonged to the line, and to its current representative, no matter how close, or distant, to the common ancestor. Thus interpreted, the succession law left no doubt that the throne was, by right, Balliol's.

The argument, however, that no female, of whatever line, could inherit before a male of equal degree, on which Bruce founded his claim that Balliol's mother could have had no right to pass on, was equally supported. Modern works state that 'representation' had by then gained clear precedence over the more archaic preference of 'degree'<sup>80</sup>, but such conclusions must partly be founded on the outcome of the Great Cause itself. The Parisian lawyers gave a majority verdict that if no established custom could apply to the case, then the nearest in degree should inherit. That the case took so long, was so involved, and that it attracted varying opinions,



serves to illustrate the confusion which reigned in the 1290s. Much of the source material which might help to elucidate the problem is of limited value: the contemporary or later narrative material is fiercely partisan, and even the opinions of the lawyers are rendered suspect by the way in which the question was put to them. The phrasing distinctly implied Scotland's total inferiority to the English crown<sup>81</sup>, and hence cast doubt on the country's status as a kingdom, leading to an underplaying of the insistence that the law to be applied must refer to a kingdom rather than to a lesser fee.

Custom, then, was the crucial factor: the competitor who could prove precedent clearly in his favour would undoubtedly win the day. Repeatedly it was stated that native custom should apply:

"in the kingdom of Scotland it stands as certain and approved custom in the succession to that kingdom, that in any line of descent, ascent or collateral, the firstborn son, or he who proceeds from the firstborn son or daughter, should be preferred in succession to that kingdom, and in that case it follows that that custom<sup>82</sup> circumscribes all law, or any other right whatsoever".

Many of the written petitions appeal, with varying degrees of dubiety, to custom. John Comyn submitted his claim "according to the laws and customs of the kingdom of Scotland", words which also appeared in the petition of Balliol.<sup>83</sup> But it was by no means certain that precedent did in fact favour the claims of Balliol. Even if it could be proved, as seems likely, that by the law of primogeniture Balliol's case was the stronger, this was no argument against the usages of Scotland, if they could be shown to oppose it. Thus Balliol, in his initial petition, in establishing his right according to the rules of primogeniture, claimed that this represented the "law and customs" of Scotland.<sup>84</sup> Similarly, Bruce

referred to "law and justice", in saying that the nearest in degree in the collateral lines should inherit.<sup>85</sup> He also tried to prove precedent, by citing Alexander II's supposed recognition of him as next heir to the kingdom, should that king have died childless. Bruce contended that this proved that he was regarded, in 1238 at least, as the nearest heir to the throne, setting a precedent for his recognition as rightful heir in 1290.<sup>86</sup>

In the later pleadings between Bruce and Balliol, much use was again made of custom. Bruce averred that there was "no custom of the realm of Scotland" in opposition to his statement that the nearest in degree should inherit.<sup>87</sup> He then claimed that the custom of the Scots supported him, since younger sons had inherited before the sons of elder sons on many occasions:

"Custom and usage in the succession of the kings of Scotland is plainly thus, that it happens in Scotland that if a king has two sons, and the elder son has a son, the brother comes to reign in Scotland before the son of the elder brother, by proximity of blood, as can be seen demonstrated in the chronicles of Scotland."<sup>88</sup>

This statement was, of course, true. Under the Celtic system of succession, in theory, the person chosen for the kingship was the one most fitted for the task who was a descendant within four generations of a previous king. Often, this was the king's brother or cousin. Between 843 and 1034 there is no example to be found of a father-to-son succession in the Scottish monarchy.<sup>89</sup> Frequently a brother, or other relative of the same degree, inherited, although not, as Bruce would have it, because of their "proximity of blood". His claim that a younger son would succeed in preference to the son of an older, dead son, was never tested in that period, although it is likely that, had it been tested, it would have proved accurate,



since the brother would probably have been more fitted to rule than the son, being older and more experienced. It was a system which looked neither to primogeniture nor to degree, but to kinship, suitability and seniority. Most of Bruce's examples, however, were at least two centuries old: his appeal was to ancient custom, but did it reflect the law current in his own time? It is undoubtedly true that elements of the old system remained in Scottish thinking: concessions to the strict rule of primogeniture, such as the acceptance of Margaret in 1286, were made only in the absence of more suitable alternatives. Balliol's stress on the right of ainesse, which would have carried the entire impartible inheritance to his line, was, however, equally convincing, and was to some extent supported by more modern precedent, which showed a preference for lineal descent.

There was, in effect, no conclusive precedent. Both competitors appealed, with equal veracity, to custom, which in the end was merely proved to be inadequate in the face of an unprecedented situation. This fact was recognised by the Scots auditors when they failed to give a definite reply to Edward's question about which law should be used:

"they replied that on account of the discord which existed between them regarding the laws and customs of Scotland, for a case so arduous, and which had never been heard in times past, they could not advise the lord king in this matter without major counsel and full deliberation".<sup>90</sup>

In recognition of the failure of native law and custom, and of English law, Bruce appealed to a higher law, the "natural law", or "the law by which kings rule". Natural law was a concept favoured by medieval theorists, who hesitated to govern the actions of kings by

lesser, man-made laws and customs (such as primogeniture), since it was by those lesser laws that the kings ruled their subjects: a king could not be bound by a law of which he was the author and executor. In his initial petition, Bruce claimed the succession "according to law and justice"<sup>91</sup>, although he failed to specify then precisely which law he meant. Later in his pleadings he said that his claim was consistent with "the law by which kings reign".<sup>92</sup> He did not make it clear from whence this law emanated, or what it said. He justified his appeal to this undefined law by claiming that

"custom of the people and tenants cannot bind the sovereign who is named king, nor do him prejudice, because kings are established to govern the people, and not to be governed by them".<sup>93</sup>

Thus Bruce, whilst nonetheless trying to prove precedent in natural law, argued against the use of custom and of Scots law in general, on the grounds that kings were above such laws. Bruce's contradictory attitude to law seems to betray a sense of weakness in his case: he may have been clutching at straws. The appeal to natural law carried the inherent flaw that despite its divine origins (things natural being considered closer to the divinity than human fabrications such as common law), it was even less defined than any native law. Bruce was able to invoke it to support his case because it was no more than an abstract concept, and as such it can have carried little weight with his contemporaries. Aware of this difficulty, Bruce allied his natural law with "imperial law". Empire, he said, was above kingdom, and he thus invited Edward I to judge the case "as his sovereign lord and emperor".<sup>94</sup> This "law by which kings rule", thus identified with natural law and imperial law, was made to decree that the male heir nearest in degree should inherit, that the right of



ainesse could not be passed on to an heir if it had not been invoked in the lifetime of the heiress to whom it initially accrued, and that such a right could in any case only be used in certain circumstances, which did not pertain at the time in question.<sup>95</sup> Bruce's main contention, then, was that Balliol's mother could, under no circumstances, have claimed more right to the throne than Bruce himself, a male of the same degree. Since she could not pass on right which she did not in the first place possess, Balliol's own claim to the kingdom was therefore without foundation, leaving Bruce as the rightful king.

On the face of it, Bruce had a strong case, if he could prove that there really was a law which demanded settlement of the dispute as he claimed. The case for the use of imperial law may also have been strengthened by the formation of the court, which was perhaps modelled on the centumviri, an ancient court of the Roman Empire.<sup>96</sup> However, his association of natural law with imperial law also implied that England and Scotland were inferior to the empire, a point which would have been hotly disputed by both English and Scottish representatives. His appeal to Edward to judge as sovereign lord and emperor also undermined the strength of his resort to natural law. Scotland was not at that time an independent sovereign state. Bruce, along with the other competitors and the guardians, who effectively represented the community of Scots, had acknowledged Edward I as overlord of Scotland, had taken oaths of fealty to him, and had agreed to his being given sasine of the Scottish kingdom and castles. Representatives of Edward I shared in the government of Scotland. Thus, if a higher law was required, the law of England,

clearly at that time a superior state, should have been sufficient. Bruce's answer to this point was that both Scotland and England, notwithstanding the relationship between them, were kingdoms. The task in hand was to choose a king. The law invoked to do so must therefore be one which ruled kings, rather than the common law of any kingdom. Balliol, on the other hand, countered with the proposition that

"since the realm of Scotland is held of the crown of England, and of no empire, then it would be to the prejudice of the crown of our lord the king if it was to be judged by imperial law in his court".<sup>97</sup>

Edward should judge the case "according to the rules of his crown and of his kingdom of England". Balliol's contention was that Scotland, as a land which had been held by homage from the kings of England "from time beyond memory", should be treated as any other impartible fief of that kingdom.

"The king of England, superior lord of the realm of Scotland, should judge and decide between those seeking the said kingdom of Scotland according to those laws and customs by which the same king of England judges and decides for lands and tenements pertaining to his crown which were occupied within his kingdom by his ancestors... that is, by the common law and custom of his kingdom, and not by any other law or custom whatsoever."<sup>98</sup>

Balliol, in a manner of speaking, thus claimed that the realm which he sought to rule, despite its title, and the title of its ruler, was not a true kingdom, but merely an appendage of the kingdom of England, and should thus be judged according to English common law.

The question of Scotland's status is, of course, important. These arguments give us an insight into what a kingdom was in the minds of men who were not concerned with abstract theory, but with political fact, material welfare, power, and personal relationships.



The claimants were, in true opportunist fashion, quite able and willing to argue points in which they did not believe, if it would be instrumental in gaining them the crown. After the initial judgement against him, Bruce felt no scruple about entirely changing his plea, from one which supported the idea of the 'kingdom' to one which relied on the status of Scotland as being no more than that of an English fief. Edward himself seems to have been in two minds about the status of the country: he always took pains to stress his "superior and direct dominion"<sup>99</sup>, but nevertheless, he usually referred to Scotland as a 'kingdom' or 'realm'. While claiming that the overlordship had always pertained to him and his predecessors, Edward nonetheless felt that he had to ask, and explain his reasons for asking, for the sasine of the kingdom. Had he really believed that Scotland was no more than a fief of his crown, he surely would have claimed its sasine on the death of Margaret in 1290, through normal rules of nonentry. He accepted that Scotland had its own laws, customs and government, but now claimed that he was superior to that government, and had the right to infiltrate his own representatives into it. Edward I thus had a dual vision of Scotland, as kingdom, and as fief: in effect, like that of the competitors, his political theory was dictated by opportunism.

The readiness of these men to change their attitudes to Scotland, and, apparently, to their concept of the state, to suit their own material gain, makes a discussion of the 'kingdom' as seen through their eyes difficult and perhaps pointless. However, despite this, issues are raised which point to important questions which must be asked when trying to establish what a kingdom was, and therefore

deciding by what law the disputed succession to the crown of Scotland should be settled.

Scotland was, de facto, a fief of England in 1291. Whether or not this was the normal state of affairs, whether or not the kingdom had been justly or unjustly reduced to that state, the sasine of the land was undeniably held by the crown and the king of England. Vassal-kingdoms were not, of course, unknown, and there may be a case for regarding certain periods of Scottish history in that light. The conduct of thirteenth-century Anglo-Scottish relations, however, precludes the contention that in this period Scotland was widely held to have had such a status. On the other hand, the nature of the Scottish realm was further brought into question by the traditional enthronement ceremony. The feeling in most of Europe was that a king, to be fully recognised as such, had to receive the spiritual insignia of unction and coronation, which instilled in him the divine power through which the true king ruled. Scotland's ancient inauguration ritual, lacking these elements, was to the detriment of the case for Scottish sovereignty, and was a matter of some concern to the Scots, who in 1221 had petitioned the pope to allow these rites to be performed at Scottish coronations. The request was not granted, because, significantly, the pope was not then willing to commit himself to such a recognition of Scotland's independence.<sup>100</sup> This episode was used as evidence during the Great Cause that Scotland could not be an independent kingdom: when the foreign lawyers were asked for their opinions, the question put to them specifically mentioned that the king of the country in question was "neither crowned nor anointed, but only placed in a royal seat by the



earls, barons and prelates of the kingdom", and that the kingdom was held "of another king, as superior and direct lord of that kingdom, for homage...".<sup>101</sup>

These questions about the status of Scotland were not in fact answered in the Great Cause. The relationship between the two kingdoms, in truth, was and always had been vague and open to change, consequent upon the fluctuations of their individual political situations. In 1290, when the Scots were weak, they committed themselves to a recognition that theirs was a vassal kingdom. But that was a matter of political expediency which was soon to be invalidated by claims of coercion, and in itself made little difference to the fundamental, undefined relationship between the two kingdoms. There was in fact no ready-made law by which the case in point could be decided. The final judgement showed the duality of thought, the contradiction, and the confusion of contemporary attitudes to the kingdom. The first part of the judgement, between Bruce and Balliol, was made according to the 1291 situation, in which Scotland was not a separate kingdom with the right to be treated under a higher law than that of its subjects. Scotland was a fief of the kingdom of England, and, therefore, according to the common law of England, working on the principles of primogeniture, it was decided that Balliol had a better claim to the throne than Bruce. The second part of the judgement, however, was made on the assumption that Scotland was a kingdom, the integrity and unity of which had to be upheld.

Once Balliol had won his case against Bruce, he had to argue against the case for partition then brought by Hastings and Bruce.

This represented, of course, a remarkable volte-face on behalf of both of the protagonists. Balliol, from arguing that Scotland was a fief, and should be judged by common law, turned to press that Scotland, as a kingdom, was impartible, and had to be preserved intact in order to avoid destruction of the integrity of the royal dignity. To be fair, Balliol had previously defended the impartibility of Scotland, saying that whilst he wished in no way to limit the actions of his overlord, his petition implied that Scotland, as a kingdom, was impartible, unlike lesser fiefs.<sup>102</sup> This was inconsistent with the main part of his case at that point in the proceedings, but it was the argument which he pursued later, in the face of Bruce and Hastings, and shows that Balliol was as opportunist as all the other competitors: the nature of kingship, the definition of kingdom, and the laws which were used to govern such concepts, were undefined, and could be cited differently, according to the needs of the moment.

Bruce, from claiming that Scotland, as an independent kingdom, was to be dealt with under a higher law, turned to the case that, as a mere fief, like all other English fiefs, it was partible. This was, in view of the attitude to Scotland displayed in the first part of the judgement, a fair case. Even the great earldoms and baronies of England were not immune from partition, as had been shown by the treatment of the earldom of Chester in the 1230s, a case in which the fathers of Bruce and Balliol, and Hastings' grandfather, had all been involved.<sup>103</sup> The lands of the earldom had been partitioned between the co-heirs, and the dignity of earl had been, eventually, surrendered to the crown. Balliol's claim that Scotland should be



treated as any other impartible English fief was unsupported by any example. According to common law, English honours such as the earldom of Chester were partible. Doubtless with the Chester case in mind, and seeing that Edward had used common law in the first part of his judgement, Bruce and Hastings claimed that

"the inheritance, the lands, of the king of Scotland were partible, in accordance with the common law both of England and Scotland, among the representatives of female co-heirs"<sup>104</sup>,

and that

"even if the land of Scotland be called a kingdom, the land itself is nothing else but a lordship or an honour".<sup>105</sup>

It was a claim which was correct and consistent with the decision made against Scottish sovereignty earlier in the case, and Bruce was within his rights under the common law, in such a case, when he sought "a third part of the lands of Scotland with all their liberties and pertinents, excepting the name and dignity of king".<sup>106</sup>

However, common law was not used in the second part of the judgement. Suddenly, Scotland seems to have assumed the status of a kingdom, and, according to the higher law to which Bruce had originally appealed in vain, it was declared impartible.<sup>107</sup> Given that decision, it became inevitable that the judgement was to be given in favour of Balliol, who, accordingly, was informed on 17 November 1292 that his was the greatest right to the throne.

One cannot help feeling that Bruce, "unprincipled opportunist"<sup>108</sup> as he may have been, had justifiable cause for complaint in 1291 - 1292. His claim that the kingdom of Scotland was his had been defeated on the grounds that Scotland was not a proper kingdom, and was thus subject to common law. His second claim,

according to common law, that one third of Scotland pertained to him, was then defeated on the grounds that Scotland, as a kingdom, was, according to the higher law which ruled such affairs, impartible. If it is fair to say that the judgement was entirely just, and that Edward was "rather legalistic than unscrupulous"<sup>109</sup>, then the status of Scotland, the importance of her vassaldom, and the significance of her inauguration rites had all changed between 5 and 17 November 1292.

The final judgement, however, notwithstanding its inconsistency, was probably the one which did truly reflect popular opinion about the status of Scotland. It was, historically, a kingdom in its own right. Despite his officious blusterings about direct dominion, Edward I recognised that Scotland was a kingdom, and he knew that his claim that it was, and had always been, a mere fief of England was, at best, contentious. Had he been truly convinced of his claim, the course of events between 1286 and 1292 would have been very different: he did, in effect, recognise Scotland's independent status when he chose to ask for recognition of his overlordship, instead of merely assuming it; he did so again when he assured the Scots that neither they nor their realm would suffer prejudice by coming south of the Tweed to treat upon the vacancy in the kingdom; he did so yet again by promising to restore the castles and land of Scotland "in the same estate as they were in when we were given sasine"<sup>110</sup>; and finally, of course, Edward I admitted Scotland's status when he gave his decision in favour of impartibility. Thus Edward, and probably the members of his court, whilst doubtless fondly hoping that Scotland would remain a vassal state, must have been aware that its



tradition was as a separate kingdom, and that its servile status of the moment was a temporary condition, brought on purely by the accident of dynastic failure. Balliol and Bruce, and the Scots attending the court, must also have believed that Scotland was a kingdom. Certainly, the competitors were willing to jeopardise that status if it would bring them to a better position - to that extent they were opportunists - but they cannot have doubted at the outset and at the end that Scotland was a separate kingdom with its own traditions. The later activities of both Bruce and Balliol as kings, tend to support that contention. They were willing to give in to vassaldom temporarily in order to gain the kingdom, but having achieved that end, pressure from the community, and indeed their own interests, demanded that they should apply themselves to achieving independent control of Scotland. They knew that submission could only be temporary.

The question of the inauguration rite was similar. Whilst there had been doubts cast upon the sovereignty of Scotland's unanointed kings, it was, as Balliol pointed out, well known that there were other examples of kings who were neither anointed nor crowned. He claimed that these ceremonies were only symbolic of the king's power and character, and were not essential to constitute the king.<sup>111</sup> What the status of kingdom implied, with reference to this realm at least, was sovereignty. All knew that Scotland, unless forced into submission by circumstances (as in, for instance, 1174 - 1189), was independent of any other state, had its own government, and made its own laws. The Great Cause was in itself a freak event, in that it was the result of the state being weakened to such an extent that it gave

in to subjection to another kingdom, and allowed that kingdom to intervene and make law concerning it. However, the eventual insistence of the Scots on the status of their country and on the implications of that status prevented further erosion, and over a period of time the qualities of the kingdom were to be painfully reasserted.

Much discussion has been given to the question of the rectitude of Edward I's judgement in 1292. By some, his legal uprightness has been devoutly defended, while for others his conduct has been the subject of vituperation. Both views betray a misunderstanding of the complexity of the issues at stake. The Great Cause was not merely a court case to decide who was to be the King of Scots, with a correct and an incorrect solution. The protagonists were not merely opportunists striving to gain the best deal for themselves out of a confused situation. Opportunism undeniably figured largely in their motives, but to decry them on those grounds is hypocritically to apply modern moral judgements to the events of the thirteenth century in a manner which is unbecoming in serious historical analysis.

The significance of the Great Cause lies not in the legality or corruption of its conduct, but in the contemporary attitudes which it reveals regarding the nature of a kingdom and the laws which governed kings. It displays, in rare fashion, a single moment in the development of political and legal thought, and reveals the confused and disorganised state of thirteenth-century constitutional theory. The Scots and the English undoubtedly regarded their lands, by this period, as separate entities: nations, kingdoms, realms, or any other



such title. But the court case of 1291 - 1292 shows that their ideas concerning the constitutional and legal significance of that concept were as yet at an early stage in their development. The normal rules of legal settlement broke down when there was no precedent, no custom, to which appeal could be made. None of the established laws were capable of providing a satisfactory answer to this unprecedented situation, and in the end an ill-defined mixture of legal theory was used to construct a solution which, at least superficially, satisfied the requirements of the two crowns.

If Bruce, as has been suggested, did have genuine cause for grievance in 1292, it is equally true to say that, had the judgement gone the other way, Balliol would have had as good grounds for complaint. One claim was as good as the other: precedent and custom could be shown to support both, and there was no established law which could distinguish between them. Settlement in favour of Bruce could equally have met the requirements of the kingdoms and reflected the confused nature of the Anglo-Scottish relationship.

There being no law, Edward I may well have made his decision on grounds other than legalistic consideration. That the weight of contemporary opinion did in fact favour Balliol is possible, but cannot now be proved, and it is equally possible that in the end Edward made his choice out of consideration of which man was more likely to bow to English overlordship. This was certainly how the events were interpreted by Scots in succeeding generations, although the propagandist requirements of the Brucian line must also be borne in mind when dealing with such evidence. But even if mere expediency was the deciding factor for Edward I, it should not be held as

reprehensible. Both men had legitimate claims, between which no law could decide: in such a situation, on what grounds other than personal preference could an overlord make his choice? If Edward I did indeed choose the king whom he considered to be more tractable, he was to be disappointed, for, as was to be demonstrated many times after 1296, he underestimated the strength and unity of the Scottish community.

The Great Cause was indeed a "considerable achievement in politics, administration, and law".<sup>112</sup> The records, biased as they may be, do give a remarkable insight into the viewpoint of contemporary non-theorists regarding succession systems, the law, and the nature of a kingdom. However, it should not be seen in a vacuum, with reference only to these legalistic concepts. More important than all of these, was the part which the Great Cause played in the political history of medieval Scotland. Seen in the context of the events which foreshadowed it, and with those which followed, the Great Cause is a vital part of the course of Anglo-Scottish relations, which, more than any other scene in that protracted drama, helped in some strange, perverse way to consolidate Scotland as a political entity. At the opening of 1293, Scotland had a king, the relationship of whom with the crown of England had been established by the events of and preceding the Great Cause. That troubled relationship was to be the anvil on which, eventually, Scotland's nationhood was reshaped.

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NOTES

- 1) Material from this chapter has been published as 'Margaret "Maid of Norway" and Scottish Queenship', in Reading Medieval Studies Vol.8 (1982), pp.75-96, to which reference should be made regarding the question of the acceptability of female rule.
- 2) Chron. Bower II, p.138.
- 3) Palgrave, Docs. Hist. Scot., p.42 (Trans. p.lxxi).
- 4) Stevenson, Documents I, pp.22-23.
- 5) E.g. W.C. Dickinson & A.A.M. Duncan, Scotland from the Earliest Times to 1603, pp.140-41.
- 6) Yolande, whom Alexander had married in 1285, claimed to be pregnant (Chron. Lanercost, p.117-18; Chron. Bower II, p.138). Whether she miscarried, or feigned pregnancy in order to maintain her position in the realm, is unknown.
- 7) Chron. Fordun I, p.319 (II, p.313).
- 8) Stones, Documents, p.[55]; Stones and Simpson, Edward I II, pp.3-4.
- 9) Ibid. II, p.179.
- 10) Stevenson, Documents I, pp.22-23.
- 11) Ibid., p.19.
- 12) This can be surmised from Inchaffray Chrs. no.117; Exch. Rolls I, p.36; Melrose Liber no.396; and see Formulary E, no.1.
- 13) See discussion in A.A.M. Duncan, 'The Community of the Realm of Scotland and Robert Bruce: A Review' in S.H.R. 45 (1966), pp.184-201, at pp.187-88.
- 14) Chron. Bower II, p.138.
- 15) "No king was ever wont to reign in Scotland unless he had first, on receiving the name of king, sat upon this stone at Scone." (Chron. Fordun I, p.294 (II, p.290)).
- 16) Stevenson, Documents I, p.48.

- 17) Ibid., pp.111-13.
- 18) Stones and Simpson, Edward I II, p.10.
- 19) Cal. Docs. Scot. II, no.460.
- 20) This title may be significant. Apart from the conventional courtesy of referring to one of higher social standing as 'my lord' or 'my lady', implying that Margaret was recognised to be of higher standing than the guardians, the association of the term 'lady' with a territorial designation is particularly important. It appears that such a style normally implies at least incipient royalty. The empress Matilda was, on her proclamation as queen by a sizeable section of the English nobility in 1141, styled Domina Anglorum, and John Lackland's style Dominus Hibernie is probably to be seen in the same light. (A.L. Poole, Domesday Book to Magna Carta, p.3 & n., pp.143, 312.) Pope Alexander III, in his confirmation of the bull Laudabiliter, mentioned the 'kingdom' of Ireland (Hiberniae regni; cf. Giralduus Cambrensis, Opera (Rolls Series) V, pp.318-19). John's style probably betrays Henry II's initial intention that John should become king of Ireland. There are several other references from England, Scotland and the papacy to the 'kingdom' of Ireland in the thirteenth century; e.g. T. Hearne, Liber Niger Saccarii I, pp.44-47; various references in Giralduus Cambrensis' Expugnatio Hibernica; Chronica Majora IV, p.381. Margaret's style Domina Scotiae (e.g. Stones and Simpson, Edward I II, pp.3-4) is therefore of great significance. That the courtesy title lady most often appears beside the title 'queen' (e.g. Ibid.) must add weight to this supposition. When the Scots referred to 'our lady', they meant 'our queen'.
- 21) Cal. Doc. Scot. II, nos. 463,464.
- 22) E.g. Stevenson, Documents I, p.105; Foedera I, p.706.
- 23) Stones and Simpson, Edward I II, pp.3-4.
- 24) E.g. Stevenson, Documents I, pp.126, 126-28, 198-99.
- 25) For discussion of the guardians' administration and rule of the kingdom, see below, Chapter 5.
- 26) Stevenson, Documents I, pp.105-11.



- 27) Foedera I, p.719.
- 28) Although the Scots claimed only to have heard "rumours" of the marriage in March 1290 (A.P.S. I, pp.441-41), it can hardly be doubted that they were involved in the negotiations, at least informally, from the beginning.
- 29) The petition was granted in a bull dated 16 November 1289 (Foedera I, p.721).
- 30) A.A.M. Duncan, The Nation of Scots and the Declaration of Arbroath (Historical Association Pamphlet, Gen. Ser. 75 (1970)), p.10.
- 31) E.g. Foedera I, p.706.
- 32) A.P.S. I, pp.441-42.
- 33) Stevenson, Documents I, pp.162-73.
- 34) Cal. Docs Scot. II, No.464 (see also R. Nicholson, Scotland: The Later Middle Ages, p.35, n.37).
- 35) Stones and Simpson, Edward I II, pp.3-4 (facsimile and trans. in Nat. Mss. Scot. I, p.36).
- 36) Ibid. (Bishop Fraser's letter to Edward I) makes this clear.
- 37) Chron. Fordun I, p.312 (II, pp.306-307).
- 38) Chron. Pluscarden I, p.209.
- 39) Linehan, Spanish Manuscript, p.120.
- 40) Stevenson, Documents I, pp.203-204. This was a style which none of the competitors used prior to Margaret's death. It is surely significant of their acceptance of her status that this was the case. Had they challenged her right, the style would probably have been used by at least Bruce and/or Balliol.
- 41) Stones, Documents, pp.[44]-[50].
- 42) In 1289 both the earl of Fife and the earl of Buchan died: the former was murdered, for an unknown reason.
- 43) Stones and Simpson, Edward I II, p.24.
- 44) Ibid. I, pp.10-12, 21-24, 176, 198.

- 45) Stevenson, Documents I, p.205.
- 46) Foedera I, pp.86-87.
- 47) Stevenson, Documents I, p.206.
- 48) Stones and Simpson, Edward I I, pp.175-76.
- 49) Cal. Docs. Scot. II, no.433. See also nos.434, 435, 437: all seem to imply an assumption of overlordship.
- 50) See n.43 above.
- 51) Chron. Pluscarden I, p.210.
- 52) Chron. Guisborough, pp.233-34.
- 53) Ibid., pp.xxv-xxxi.
- 54) Stones and Simpson, Edward I I, p.23. This point was also raised by the Scots in 1300 (Chron. Pluscarden I, p.194).
- 55) Chron. Wyntoun (Laing) II, p.282; Barbour, Bruce II, p.7.
- 56) Stones and Simpson, Edward I II, pp.242-43.
- 57) Stones, Documents, pp.[44]-[50].
- 58) Stones and Simpson, Edward I II, pp.148-49.
- 59) Cal. Close Rolls Edward I, 1279-1288, pp.368-70, and see G.G. Simpson in S.H.R. 36 (1957), at pp.116-17.
- 60) Stones and Simpson, Edward I II, pp.162-64.
- 61) Cal. Docs. Scot. II, no.426.
- 62) Stones and Simspon, Edward I II, p.154; Cal. Patent Rolls 1281-1292, p.501, and see also Stones and Simpson, Edward I II, p.232.
- 63) Ibid., p.234.
- 64) It is perhaps relevant that Bruce's sister Isabel was married to King Erik in 1293.
- 65) Stones and Simpson, Edward I II, pp.3-4.
- 66) It is possible that the gathering was intended to be a joint parliament of the two realms. See below, pp.256, 264-65.



- 67) Except where otherwise noted, the following summary of the events of 1291-1292 (pp.19-22) is based on the evidence reproduced in Stones and Simpson, Edward I II, pp.236-285.
- 68) The Balliol auditors were to be chosen in conjunction with John Comyn. He was Balliol's brother-in-law, having married the future king's sister, and only entered the competition on the condition that his claim did no prejudice to that of John Balliol.
- 69) A.P.S. I, p.449.
- 70) See G.J. Hand, 'The Opinions of the Paris Lawyers upon the Scottish Succession c.1292', in The Irish Jurist 5 (1970), pp.141-155.
- 71) Stones and Simpson, Edward I I, p.14.
- 72) See table facing p.80.
- 73) See, e.g. G.G. Simpson, 'The Claim of Florence, Count of Holland, to the Scottish Throne, 1291-2', in S.H.R. 36 (1957), pp.111-24.
- 74) Barrow, Robert Bruce, p.59.
- 75) A.P.S. I, pp.421-22. See above, p.24, and cf. Stones and Simpson, Edward I II, p.188.
- 76) A.P.S. I, p.424 (trans. G. Donaldson, Scottish Historical Documents, p.38).
- 77) See table facing p.80.
- 78) Stones and Simpson, Edward I II, pp.359-61, and see n.70 above.
- 79) Craig, Jus Feudale, p.674. See also Stones and Simpson, Edward I II, p.177.
- 80) F. Pollock and F.W. Maitland, The History of English Law, pp.260-301, & at p.286.
- 81) Stones and Simpson, Edward I II, p.196, and see below, pp.93-94, n.101.
- 82) Stones and Simpson, Edward I II, p.359.
- 83) Ibid., pp.138, 140.
- 84) leges et consuetudines Scotiae: Ibid., p.140.

- 85) per legem et justiciam: Ibid., p.142.
- 86) Ibid., p.170.
- 87) Ibid., p.167.
- 88) Ibid., p.168, and see also p.175.
- 89) See table facing p.80. Excluding the succession of Duncan I in 1034 and Malcolm IV in 1153, both of whom succeeded their grandfathers, every Scots king from Kenneth Macalpin to Malcolm IV (12 generations, 24 kings) was succeeded by a collateral.
- 90) Stones and Simpson, Edward I II, p.158.
- 91) Ibid., p.142.
- 92) Ibid., pp.167, 170.
- 93) Ibid., p.167.
- 94) Ibid., p.170.
- 95) Ibid., pp.171-72.
- 96) See Ibid. I, pp.12, 33, 117-18, 221; II, pp.71 (n.), 371-72. See also G. Neilson, 'Brus versus Balliol, 1291-1292: the Model for Edward I's Tribunal' in S.H.R. 16 (1919), pp.1-14.
- 97) Stones and Simpson, Edward I II, p.179.
- 98) Ibid., p.205.
- 99) This wording seems to have implied not only his position as overlord, but also the vacancy in the crown. He does not appear to have used the style 'direct lord' when there was a reigning king of Scots (cf. Stones and Simpson, Edward I I, pp.120-21).
- 100) See Duncan, Scotland: The Making of the Kingdom, p.526 and n.11.
- 101) Stones and Simpson, Edward I II, p.196.
- 102) Ibid., pp.214-15.
- 103) See R. Stewart-Brown, 'The End of the Norman Earldom of Chester' in E.H.R. 35 (1920), pp.26-54.



- 104) Paraphrased from Bruce and Hastings' pleadings in Ibid., p.46.
- 105) Ibid.
- 106) Stones and Simpson, Edward I II, pp.224-25.
- 107) Predictum regnum Scotiae non est partibile, nec escaete seu acquisita infra regnum sunt partibilia: Ibid., p.226.
- 108) B.C. Keeney, The Medieval Idea of the State: the Great Cause, 1291-2', in University of Toronto Journal 8 (1949-50), pp.48-71 at p.71.
- 109) Ibid.
- 110) Stones and Simpson, Edward I II, p.88.
- 111) Ibid., p.320.
- 112) Ibid. I, p.196.

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CHAPTER THREEThe Reign of John Balliol, 1292 - 1296

The reign of John Balliol has aroused much discussion among historians, a fact which seems mildly absurd, since it lasted for only three-and-a-half years, about one eighth of the average reign of Scottish kings in the thirteenth and fourteenth centuries. The reason for this preoccupation is remarkably little connected with the man himself, the significance of the reign resting rather on the unprecedented turn in Anglo-Scottish relations which had taken place previous to Balliol's accession. However, despite this fact, commentators have frequently summed up Balliol's reign with an attempted character study of the man himself. Such an approach is unsatisfactory: too little is known about Balliol to enable any adequate conclusions to be drawn about his character, and, in any case, the course of events did not follow so much from his personality as from the vagaries of the political scene, over which he had little control. Thus, for example, the description of Balliol as "rather an ordinary man facing an impossible political situation"<sup>1</sup> is in no way adequate as a description of the prevailing situation in late thirteenth-century Scotland.

For a more satisfactory assessment of this remarkable period in Scottish history one must look, above all, at contemporary thought. The events and consequences of this reign, perhaps more than those of any other, arose from conceptual, rather than personal or even political foundations. What mattered to the Scottish community, and what must eventually have been the root cause of Balliol's failure to retain his crown, was not the fact of Edward I's overlordship; nor



was it Edward's hearing of appeals from the Scottish courts. Clearly, Balliol and the Scottish governing community, in 1291, when they agreed to allow Edward to adjudicate what was fundamentally a Scottish judicial matter, had been prepared to accept overlordship and its judicial implications, while nevertheless expecting to be able to continue to rule Scotland by Scottish legislation and administration. The problem was not the fact of overlordship, but rather its intellectual implications. John was the 'King of Scots', the fount of justice, upon whom the people depended for freedom from injustice and tyranny. His most fundamental duty as a king was the protection of his people through justice, of which he, through the dignity of his office, was the primary source. However, the implications of acknowledging another king as overlord contradicted this, the basis of his kingship. If he, despite the bestowal upon him of the 'dignity' of the crown, was not the primary source of justice in the community, could he in fact claim to be truly its king?

The community of the realm must have been aware of this difficulty; the very concept of Scotland as a 'kingdom', so often discussed, and eventually upheld, in the adjudication of the succession, was at stake. The tradition and experience of centuries had led the Scots to believe that their land was, de facto, a kingdom, no matter what arguments of legal minutiae might be adduced. Even the period of 1174 - 1189, when King William had been forced to bow to English overlordship, had not threatened Scottish sovereignty in this way, for his submission was undeniably the result of coercion, and, in any case, Henry II had not challenged William's right to rule Scotland. The judiciary had not been subject to

English review, and no English royal edicts had dictated to William how he was to carry out his governance.<sup>2</sup> In Balliol's reign, however, an attack was launched at the theoretical roots of Scottish kingship, and at the status of 'kingdom'. In short, the entire foundations upon which Scottish identity and government had been built were in danger of being undermined. The problems of Balliol's reign are thus to be seen from the point of view of the implications for the fabric of Scottish society of conflicting ideas regarding the nature of his kingship.

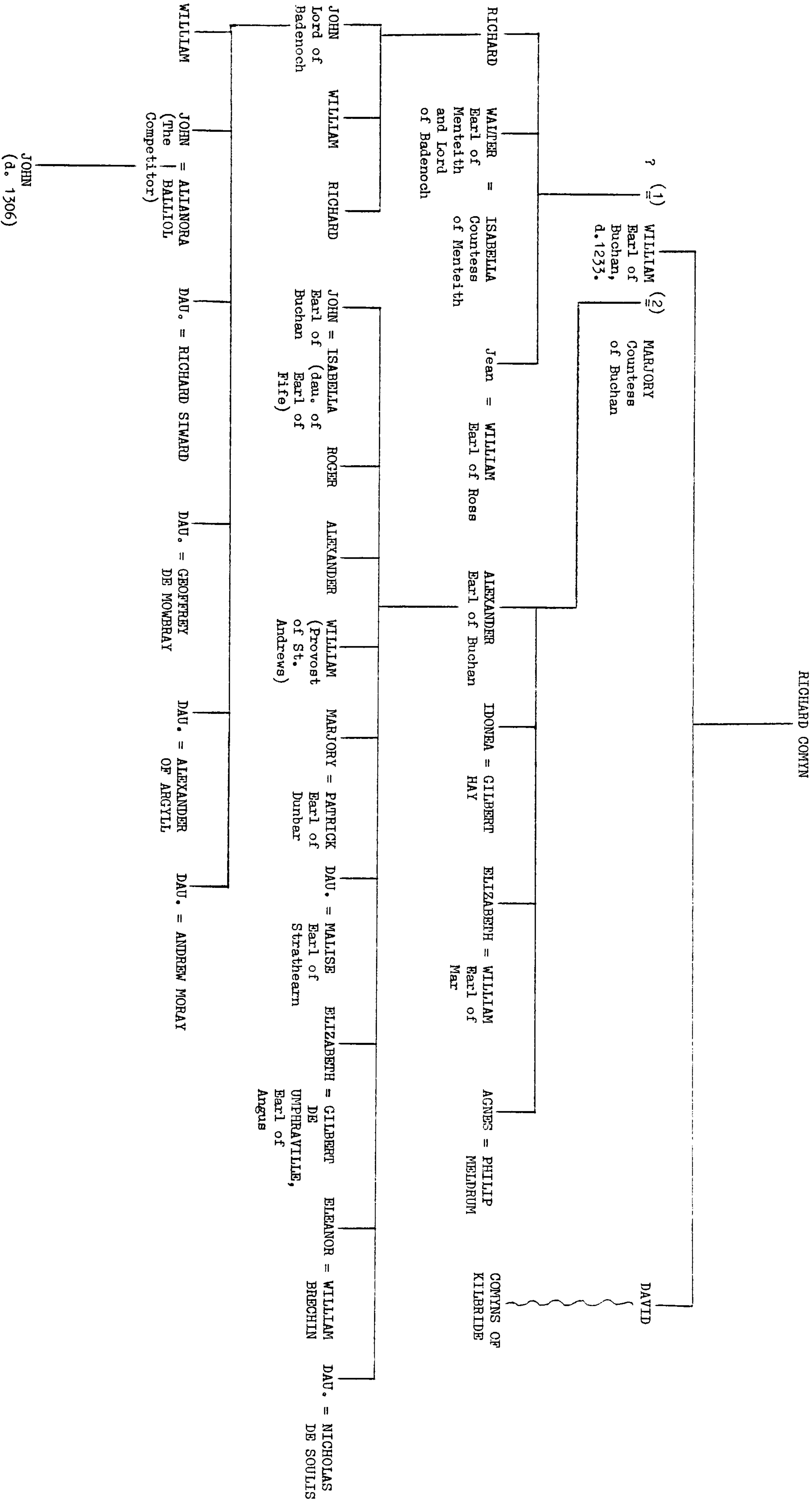
When John Balliol finally won his case before Edward I, and was proclaimed King of Scots in November 1292, it may have come as somewhat of a surprise to him. The youngest son of his family<sup>3</sup>, he would not have been brought up to embody the relatively new Balliol claim to the Scottish throne. The deaths of his elder brothers, however, left him as head of the family, with a duty to pursue its claims to aggrandisement when the opportunity arose. His family was not long-established in Scotland, but through good alliances in the century preceding their elevation to the kingship, the Balliols had greatly increased their fortunes to become exceedingly powerful, wealthy and well fitted for the royal connection now bearing fruit in King John. Their acquisition of great estates in Galloway, through the marriage of John's father to Devorguilla, the heiress of that lordship, had greatly enriched them, and John's position as lord of Galloway must have been effective in producing the prestige which had to be attached to the one who was to be King of Scots. The court in Norham and Berwick had declared him the rightful heir, and the Scots



were probably pleased at last quickly to inaugurate a king in traditional style, who would be expected to fulfil a traditional rôle. His position as a major land-holder and powerful baron must also have been of consequence in their willingness to accept him as their king.

Also relevant to his position with regard to the community, however, was his close connection with the Comyns, one of the oldest, and perhaps the most influential, of Scotland's Anglo-Norman noble families. Their vast territorial possessions, which included Buchan, Menteith, Badenoch and much of Galloway, were matched by the leading rôle which for some considerable time they had taken in Scottish government.<sup>4</sup> Having risen to great prominence in the reign of Alexander II, they had led one of the parties which took power in the minority of Alexander III, had figured greatly in the guardians' government of 1286 - 1290, and were undoubtedly in the very forefront of Scottish political life. During the first guardianship, Comyns, or representatives of families closely allied to them by marriage or political affiliation, held almost a third of Scotland's sheriffdoms.<sup>5</sup> Alexander Comyn, earl of Buchan was also justiciar of Scotia, which office passed after his death to Andrew Moray (who was married to John Comyn's (the competitor's) sister), and again, later, to John Comyn, earl of Buchan (Alexander's son).<sup>6</sup> John Comyn of Badenoch also held the justiciarship of Galloway for much of the thirteenth century.<sup>7</sup> The Balliols, in acquiring their land and influence in Scotland, had also gained marriage alliance with this pre-eminent family, who were themselves not unrelated to the royal house. King John's sister, Alianora, was married to John Comyn, the competitor, thus uniting the two claims to the throne.

THE COMYNS IN THE THIRTEENTH AND EARLY FOURTEENTH CENTURIES





It is certain that the support which the Comyns gave Balliol in his attempt to win the crown was considerable. Their own claim to the throne was by this time very weak, but by backing Balliol they greatly increased their chances of enlarging the sway which their family already held in Scotland. John Comyn's own claim was lodged merely in order to record, in case of future eventualities, his family's links with the royal house, and, in his petition for the throne, he averred that he wished his claim to bear no prejudice to that of John Balliol<sup>8</sup>, whom, clearly, he wished to be the successful candidate. It is noticeable that many of the auditors chosen by Balliol in the Great Cause were of families which had been involved in the Comyn party of the 1250s, who were actual kinsmen of the Comyns, or were clerics, the patronage of whose benefices lay with the Comyns or their supporters. It is possible to prove family relationships with the Comyns for a considerable number of the auditors, and when those who had earlier political affiliations are added, the list of 'Comyn men' among Balliol's auditors grows to around half the total.<sup>9</sup>

There is less evidence for direct Comyn influence during the actual reign of Balliol, but nevertheless, it does seem that the Comyns were close to the centre of power. A study of the witness lists of John's acts emphasises this: John Comyn of Badenoch, John Comyn, earl of Buchan, Geoffrey de Mowbray, Patrick Graham, Gilbert de Umphraville, earl of Angus, and William, earl of Ross make up the majority of those who appear regularly.<sup>10</sup> Furthermore, of the fifteen non-clerics whose seals were appended to the treaty of Paris<sup>11</sup>, and whom we may therefore safely assume to have been the

king's inner council, three were Comyns, two had Comyn wives, and three more were related to the old Comyn party of the 1250s.<sup>12</sup>

It seems, then, that Balliol's support in Scotland was significantly based on this family which, as demonstrated by the events of the preceding half-century, had great pretension to control the government, a fact which must be of relevance to King John's position in the kingdom. The Comyns, through marriage alliance with the Balliols, had found the means of re-asserting their power in the government of Scotland.

Without the allegiance of the Comyns, the support which Balliol could have commanded in his bid for the throne would have been significantly less influential than that of his major rival, Bruce.<sup>13</sup> The complex pattern of Comyn alliance which seems to have been used to prop up the Balliol claim suggests that John was as much a Comyn candidate for the throne as a Balliol one. As king, his control may well have depended on Comyn support, and it is perhaps not too great an overstatement to suggest that in some ways Balliol should be seen as a mouthpiece for the Comyn rule of the kingdom: certainly, the Comyns provided the power behind his government.

Despite the uncertainty of his relationship with Edward I, and the influence wielded by the mighty Comyns in Scotland, there is no evidence to suggest that Balliol was not aware of the responsibility of government which his kingship laid upon him, nor that he was not prepared to act accordingly. What little is extant of his legislation and parliamentary business shows that the government of the country was carried on with some degree of thoughtfulness and success. His duty was to keep peace, so that responsible and peaceful members of



society could live without fear of disturbance from oppressors of any sort. Balliol's principal legislative acts were concerned with achieving exactly that aim in the area of the kingdom where previously royal control had been most lacking:

"the lord king, for the observance of the peace and stability of his kingdom, has stated and ordained that the lands underwritten will be a sherifffdom... to be called the sherifffdom of Skye".<sup>14</sup>

Similar edicts were issued creating sherifffdoms of Lorne and Kintyre.<sup>15</sup> It is noteworthy that two of the new sheriffs were men who were prominent relatives and supporters of the Comyns,<sup>16</sup> a point which can hardly be co-incidental. The king is here fulfilling his traditional function, the promotion of peace, and therefore prosperity, within the community.

Most of the rest of John's records deal with his treatment of judicial matters. Parliament was the highest court in the land; the king was its supreme judge, and is found, in a parliament held only a few weeks after his accession to the throne, attempting to untangle some of the legal affairs left as his legacy from the interregnum. Some of the cases have become famous: MacDuff's plea about his share of the lands of the earldom of Fife,<sup>17</sup> the plea of the monks of Reading regarding their alleged right to the priory of May<sup>18</sup>, and the case of the money claimed by the count of Flanders as due to him from the marriage of his daughter to the son of Alexander III<sup>19</sup>, for example. Others show the normal, day-to-day business of a hard-worked judiciary. While the latter have not come to symbolise the failure of King John, and so have not gained the fame of the former, affairs such as the case of the crown against William Douglas<sup>20</sup>, who had imprisoned officers of the crown "against his fee

and pledge, and against the laws used in the realm of Scotland", or the settlement of the dispute between William Bisset and the bishop of St. Andrews over the lands of West Calder<sup>21</sup>, were clearly treated with as great a sense of importance. King John set about the judicial and administrative business of government in similar fashion to any king.

It has been tempting to describe Balliol as a rex inutilis, a king who was useless, since he could or would not fulfil the obligations which his office laid on him, to the ruination of the kingdom.<sup>22</sup> This could explain why his people rejected John, and all but removed him from office, and why his overlord spurned him, and took away the dignity which he had so recently conferred. On the other hand, the impression which one gets of Balliol's parliament attempting to do justice to those who sought it, and legislating for the welfare of the kingdom, shows that such a view of Balliol must be at least partially unsatisfactory.

However, in one respect Balliol's position must have been contradictory to his status as king. Fordun states that in Edward's court in September 1293, King John suffered "numberless insults and slights, against his kingly rank and dignity".<sup>23</sup> These 'insults and slights' were the consequences of his acceptance of Edward's right to call his judgement into question. In accepting the status of a vassal king, Balliol removed from himself the position of supreme judge, and with it perhaps also the true dignity of the crown. One of the oppressions which it was his duty to prevent, in order to retain a just and righteous society, was the tyranny of rule by a foreign power. Regiam Majestatem makes this clear:



"our illustrious king... has no superior but God himself... and... by the might of his strong right hand... may... all the days of his life be victorious in subduing his foes".<sup>24</sup>

Balliol's acceptance of the necessity to do homage for the kingdom, his willingness to play second fiddle to Edward I, and perhaps also to his own noble mentors, the Comyns, show that on this more political level he had no aptitude to be a king of Scots. In effect, he was a 'sub-king', and it must have been felt that this in some way negated his royal dignity, because it was no part of the Scottish idea of kingship as established throughout the previous two centuries, and which had been expressed so recently as the Great Cause. This idea was to be affirmed again in the later propaganda; for instance, in the document prepared for the Anglo-Scottish peace negotiations at Bamburgh in 1321, the Scots claimed, in answer to the English version of Balliol's election, rule, and deposition, that

"by common right, one equal cannot hold sovereignty (imperium) over another, and thus a king cannot be subject to a king, nor a kingdom to a kingdom... and thus it must be allowed that the kingdom of Scotland does not owe subjection to the kingdom of England".<sup>25</sup>

The document went on to rehearse the Scots' version of events up until the beginning of the Great Cause, at which point they claimed that since the right to judge had been usurped through force and guile, Edward's judgement was of no significance, "as if judgement had not been made". The nature of that judgement was not even mentioned in the document, and neither are any of the events thereafter until the English invasion and oppression, when the Scots "gave freedom to... their legitimate lord, Robert Bruce... and recognised him as the true heir to the kingdom". They had claimed that a king could not be subject to a king. Therefore Balliol, who

indisputably was subject to Edward I, could not have been a king, and so accordingly was deemed unworthy even of a mention. So, when it suited their propagandist purpose of discrediting Edward I's attempts to prove an established overlordship in Scotland, the Scots used their own avowed theory of sovereignty to prove that John Balliol could not have been a true king. It is interesting to note, however, that the Scots accepted his acts as valid, and that even after his deposition he was still recognised as king by the various guardianships and by the community.<sup>26</sup> Presumably this was justifiable because he had been inaugurated as king, and acted with the authority and consent of the community. Their government in his name would carry similar authority after his 'deposition'. When his actions ran contrary to his status, however, as in his attendance at King Edward's summons, he acted against the interests of the community, against the wishes of at least a sizeable proportion of it, and without its consent. It may thus have been possible for the contemporary community to uphold the notion of John's kingship, but yet deny the validity of his acts of vassaldom.

John, of course, must have been aware of this anomaly in his position. Willing to accept the dignity and power which the crown offered him, ready to govern the country in accordance with traditional principles, he nevertheless had to jeopardise the very basis of his kingship, supremacy in the kingdom, in order to gain and retain it. This ambivalence in his position may well explain why Balliol appears to have found the kingship a rather thankless task. In a later statement, which, although undoubtedly made under duress, nevertheless serves to illustrate the mixed feelings with which he left Scotland, he claimed that



"when he possessed and ruled the realm of Scotland as king and lord of the realm, he found in the men of that realm such malice, deceit, treason, and treachery, arising from their malignity, wickedness and, stratagems... that it is not his intention to enter or go into the realm of Scotland at any time to come, or to interfere in any way with it, or even... to have anything to do with the Scots".<sup>27</sup>

The awkwardness of his position was inevitable, given that Edward I wished to exert his authority over Scotland in a manner previously unknown. The events of 1290 - 1292 had left Balliol in no doubt that Edward was his lord, not only in his capacity as an English noble, but also with regard to his kingdom. In the Rotuli Parliamentorum there is a licence to King John to infeft Agnes de Valence in certain lands held in chief of the English crown, in payment of damages adjudged to her in Edward's court at Westminster.<sup>28</sup> Here, Balliol had clearly lost his case against Agnes de Valence in Edward's court, and was now having to pay damages to her, as he would have had to do had his position been no more than that of an ordinary nobleman. His elevated station earned him none of the preferential treatment which other kings of Scots had enjoyed in their dealings with English kings.<sup>29</sup>

So, Balliol regarded Edward I as his liege lord. Receiving the kingdom from him and doing homage specifically for it, all the while being treated as a normal English baron, must have contributed to impressing on Balliol the superiority which Edward held over him. This superiority was shown in more ways than just the matter of the appeals which required Balliol's attendance at English courts. Throughout the first year of John's reign numerous orders were sent to him regarding every-day matters of government. Only about one week after his inauguration, "John, by the grace of God illustrious

king of Scots" received an order from his overlord instructing him to see that the bailies of James the Steward collected the revenues of Kintyre, Jura and Dumbarton. Similar orders were given regarding the earldom of Fife, the sheriffdoms of Banff, Wigtown and Dumfries, and many other places in Scotland.<sup>30</sup> In the first few months of his reign, John had to accept that Edward, in his capacity of lord superior, was writing directly to the bailies and burgesses of many Scottish burghs instructing them regarding the payment of arrears of taxes due to Edward from the time when Scotland was in his hands.<sup>31</sup> On 13 December 1292 Edward announced that he had given to the bishop of Glasgow the marriage of the widow of the late Nicholas Biggar, who had held in chief of the crown of Scotland, and also the guardianship of the said Nicholas' two daughters and two-thirds of his lands.<sup>32</sup> At the end of the same month he ordered the provost of Linlithgow to pay the town's arrears to Erik II of Norway, in settlement of the debt due to him which Erik had recovered in Edward's court.<sup>33</sup> Similar orders were given to other towns. On 4 January 1293 Edward, using, as always, his style superior dominus regni Scotiae, confirmed the custody given to Walter Logan by the erstwhile guardians of Scotland, of the goods and heirs of the late Henry de Wiston, who had also held in chief of the crown of Scotland.<sup>34</sup>

These few examples show the extent to which Edward I involved himself in the administrative, judicial and financial affairs of Scottish government after his award of the kingdom to John Balliol. They are all taken from the early period of John's reign, and a few could therefore be explicable in terms of the overlap while power changed hands. Some of them were undoubtedly Edward's concern; he



had made it clear that the revenues of the crown in the interregnum were due to him,<sup>35</sup> and the arrears in payment were thus his to collect. Given Balliol's kingly status, however, it would have been more in order for Edward to have written to him regarding the money now due, rather than issuing his commands directly to the burghs. Other instances were of a different character, however. The money due to Erik II of Norway was a matter between the rulers of Scotland and Norway and, now that Scotland had a king, need not have involved Edward beyond, perhaps, a letter saying that Erik had asked King Edward to use his influence to ensure payment. Edward's confirmation of the grant to a Scottish baron, given by Scottish elected guardians, of the wardship of a Scottish noble's goods and heirs, was obvious and provocative intervention in a purely internal administrative affair. Such cases are frequent, though: in the Rotuli Scotiae alone there are records of almost one hundred examples which took place in 1293, 1294 and 1295.<sup>36</sup> These cannot be explained away as administrative overlap.

Having achieved recognition of his status as 'superior lord' of Scotland, Edward clearly intended to use it to the full, to involve himself as closely as possible in Scottish affairs. Balliol was constantly reminded that he was not the ultimate authority in Scotland: it was not to him that crown revenues would automatically be paid; it was not to him that grants of such pertinents of the crown as wardship and marriage necessarily pertained; he was even reminded that the entire kingdom was not his unless Edward I so desired, for on 5 January 1293 Edward issued a brief to Walter de Huntercombe, his guardian of the Isle of Man, ordering him to give

sasine of the island to King John, since, 'by grace', Edward had restored to John such possession of the island as Alexander III had had, saving for himself and his heirs his own right, the fruits, wards, marriages, reliefs, escheats, fines, amerciements, arrears, fermes, returns, and the pleas and attachements of any of his bailies from the time when the sasine of the island pertained to him.<sup>37</sup> Thus Edward I returned to King John a part of the Scottish kingdom, not because it was John's right to have it, as king of Scots, but because Edward wished to show 'grace' to his vassal in this way.

John Balliol was, through his blood, his election and his inauguration, a king "by the grace of God". However, his contact with Edward I amply proved to him that his kingdom was in fact held and governed by him through 'the grace of Edward'. Balliol's treatment by Edward, in his rôle as an English noble, in his establishment on the throne, and in the amount of interference which he suffered in the government of the kingdom, even in affairs of simple administration, proved to him beyond doubt that in Edward I he had an overlord who, despite all theories of kingly dignity and sovereignty, had the power and the will to dictate to him how to act. If Balliol was to retain the kingship, he must bow to the demands of this superior lord, whose dominion he had no option but to accept.

Edward's motives in this intervention are difficult to establish. Having achieved a more complete overlordship than any of his predecessors, he was understandably keen to maintain his influence over Scottish affairs, and to make permanent his achievement. However, the minutiae of administration with which he involved himself seem unnecessarily provocative. Most accounts of



the downfall of King John tell only of the major court actions which led to his disobedience. But those cases were the culmination of a policy of interference and deliberate annoyance pursued by Edward I from the start of the reign, and it does not seem unreasonable to suggest that Edward was attempting so to weaken the fabric of Scottish kingship that an eventual annexation could take place without great dislocation or protest.

Edward I must have been aware of the ambiguity of his position when he wrote to John "by the grace of God, king of Scots", simultaneously styling himself "superior lord of Scotland". He undoubtedly had a perfectly good understanding of the implications of sovereignty, and of the duty of a king. He knew that Scotland was a kingdom in its own right (or at least that it regarded itself in that light), and that most of its kings had ruled without any meaningful subjection to the English crown. He knew that the Scots were suspicious of his intentions and objected to his assumption of superiority, and he can have had no doubts as to their reasons for so doing. However, Edward also knew that he was in a position to make a good attempt at subjecting the kingdom to his own crown, and to that end he was quite prepared to deny it its status, and to jeopardise and demean the status of the man whom he called its 'king'. He knew that the people of Scotland wanted a king, and what they would expect of one, and was thus prepared to give them a ruler who would appear to hold the strings of government in his hands. The country would thus remain at peace and would, through his control, be governed in accordance with his wishes and in the interests of his own kingdom.

The concept of the sovereignty of the Scottish king was thus in severe danger, and so therefore was the dignity of the crown and the status of the kingdom. However, Balliol was trapped between Edward's lordship and the ideals of the Scottish community, led by the Comyns. He required the support of both to retain his position, and the best he could do was to attempt a compromise, to satisfy both parties and at least to make a show of ruling the country equitably. It was a situation which could be maintained if neither Edward nor the Scots made demands on him sufficient to perturb the other, and it must have been in that hope that King John began his reign. The only practical course for him was to attempt to maintain some sort of status quo through which he could satisfy both Edward I and the Scots community, and hope to avoid direct conflict, retain his kingship, and possibly prevent further disruption to the government and life of the kingdom.

During the reign of Alexander III, the Scottish community had undoubtedly grown in wealth and cohesion, and the years 1286 - 1290 must have added a powerful sense of their rôle as defenders of the realm. The community's reaction to King John and his relationship with Edward I is therefore also of vital importance in establishing how he came to lose the kingdom. The comment on the year 1292 in the Historia Anglicana of Thomas Walsingham, that "the Scots were neither sad nor happy about the adoption of their new king"<sup>38</sup>, is probably a remarkably good estimate of how the Scots felt about Balliol. They must have been pleased that at last the disputed succession was settled and that they had a king to whom they could look for justice and firm government. "What mattered most was to end the interregnum



and to inaugurate a lawful king."<sup>39</sup> So indeed, when, on St. Andrew's day 1292, the inauguration ceremony went ahead with traditional solemnity, those Scots who were concerned with the government of the kingdom cannot have been sad. But neither can they have been particularly happy, for the community of the realm, aware of their traditional role as advisers of the king, must have been equally aware of the other traditions of government which recognised the king as the embodiment of law in the kingdom, the supreme judge and administrator. They must have feared the consequences of the relationship between their king and Edward I. Here was a king who had not gained the throne in quite the traditional manner, by right of blood and by the approbation of the people only, but also through the judicial process of another king, with the backing and power primarily of one major Scottish family, neither of whom he could afford to alienate. The community's attitude to Balliol, happy as they were to call him 'king', must have been uneasy. Caught between two parties, in both of whose interest it was to control him, here was a king with little chance of ruling fairly and strongly in the interests of the kingdom and the majority of its inhabitants. Even in 1292, with the relief of having a king perhaps uppermost in their minds, the fear of renewed civil strife and of increased foreign intervention in the kingdom, perhaps even of war, cannot have been far away.

The early legislation of King John, regarding the highland sheriffdoms, may have raised the community's hopes: these were the acts of a king intent on following the policy of consolidation of royal power which had figured so prominently in the reigns of the

last two Alexanders. The community's concept of the king's rôle was doubtless similar to John's, and they too would seek to play their part in government in order to achieve the traditional goal of a just and well-ordered society. But several factors must have coloured their view of King John in this context. Sections of the community may well have felt threatened and alienated from government by the Comyn-predominated régime. Some of the Scottish governing class had little to gain, and much to lose, from such a government. An obvious, if extreme, example of this feeling is the case of the Bruce family. Despite the early recognition of Balliol's victory in the Great Cause,<sup>40</sup> Robert Bruce does not seem to have offered homage to King John, and the threat of English intervention in the rule of Scotland did not help to draw his family into the fold. They had more to gain by playing into King Edward's court, and later, when conflict arose, were found on the English side of the struggle. There must have been other families who felt in a similar position. Still others, closer to the Comyns, would, of course, be supportive of this administration, hoping to benefit from it. So, even within the community itself there must have been potentially troublesome division. Outweighing this, and probably, for the moment, pulling these opposing factions together, early in the reign, before events led to polarisation within the community, was the threat posed by King Edward. Many of the Scottish community were in a situation similar to Balliol's, being English feudatories as well as Scottish ones. Few, however, were so in any important capacity, and their major interests lay in Scotland, and that they counted themselves as part of the Scottish community implies that they shared a common view



of the 'rightful' status of the Scottish realm. It is difficult to believe that the majority of the community did not view Edward with some suspicion. The answer which they had given him at the beginning of the Great Cause, when he had asked for recognition of his superiority, shows that they regarded the question of independence as a serious issue. They were not willing to bow to his assumed authority, and it was not the community, but the competitors, who had a vested interest, who led the movement to accede to Edward's demands. In the first instance, the community claimed that they knew nothing of this supposed 'right' of the English kings to overlordship, and that, in any case, they could not answer on such an issue without first consulting their leader, a king.<sup>41</sup> This answer shows that there was a corporate desire within the community to fulfil its traditional rôle in the kingdom, to govern with the king in order to protect the interests of the realm. One of those interests, clearly, was the kingdom's independence of foreign control. Rule from outwith the country was seen as tyranny, and it was the community's duty to combat it.

It has been fashionable to suggest that medieval nobility would have no such conceptual attitude to government, and that their actions were prompted entirely by short-sighted self-interest, ideas of the wellbeing of the realm and the traditional rôles of king and community having no place in their motivation. To support such a view is surely greatly to underestimate medieval society, and in this case is inconsistent with the course of events, and with statements made by both king and nobility. For instance, at times it would have been more in the nobles' interest to give in to Edward than to

oppose him. Personally, what had they to lose in 1291, or later, by accepting Edward's claim to overlordship? There is no reason to suppose that their estates were threatened, and indeed to accede to his wishes may have been a safe route to more stable and firm government. It cannot have been in their personal interest deliberately to incur the wrath of a king such as Edward I. Their opposition to English overlordship was based on the conceptual view of the natural order of government and the traditional status of their kingdom. The 'Appeal of the Seven Earls'<sup>42</sup> complained that the guardians, who were there "to preserve and defend the established rights, liberties and customs of the realm", by attempting to promote Balliol to the kingship without the advice of the whole community were acting in prejudice of the 'Seven Earls of Scotland' and of the community at large, since

"by the laws and customs of the realm of Scotland, from time immemorial up till the present, it is one of the rights and privileges and liberties of the seven earls of the realm of Scotland, and of the community of the realm, to make a king".

That document, of course, was Brucian propaganda. Nevertheless, its purpose was to oppose the actions of the guardians by appeal to their duty, and to the traditional rôle of the earls and community in the government of the realm. These concepts were not unknown, and were not lightly regarded. Had they been so, then as a piece of propaganda the 'Appeal' would have been senseless. Similarly, John Balliol's statement of September 1293, when called to Edward I's court to account for his alleged lapse of judgement, that he could not answer any case regarding his kingdom without the counsel of the 'wise men' of his realm<sup>43</sup>, cannot have been a mere formality, or it



would have been of no effect even in gaining an adjournment. Balliol, too, was appealing to the accepted position of the king and community in the realm, and the appeal was in some measure successful. Later too, in the Declaration of Arbroath<sup>44</sup>, the pope was reminded of the Scottish nobles' belief in the independence of their kingdom, and of the rôle of the community in the establishment of a king and in his government, even to the point of removing him from power if he did not uphold what were seen as the fundamental duties of his position. Again, propaganda, but not purely so: it was an appeal in realistic terms to the theories of government of which they were aware, and which they followed in their function as the governing body of the kingdom.

A conceptual attitude to government was thus firmly embedded in the minds of the community of late thirteenth-century Scotland. It had been applied to the situation in which they found themselves in 1291, and was still applied after Balliol's accession to the throne. Edward I called himself an overlord, but their concept of the kingdom precluded this possibility. They had a king, who had been accepted by them and inaugurated in the proper manner, and as far as they were concerned, he, with their advice, had to rule the country. Their support was therefore put behind King John, in opposition to the claims of Edward I, despite the obvious drawbacks of Balliol's weakness in having to accept Comyn ascendancy, and in having to bow, to some extent, to Edward's demands. Of course, the Comyns were part of the community too, and so they regarded the situation in the same light: Balliol was the king of Scotland, and, with their 'help', it was his duty to govern the kingdom in accordance with the concepts,

laws and customs laid down by the tradition of centuries. There was not, of course, total unanimity: those, such as the Bruces, who had particular axes to grind, did not lend their support. There is no evidence, however, which suggests that the community was divided during John's reign into two factions, pro-Bruce and pro-Balliol. On the contrary, some of those who had supported Bruce in the Great Cause did give their homage to Balliol, and took their place in his council.<sup>45</sup> When it came, later, polarisation was pro- and anti-English, and, later still, pro- and anti-Bruce.

The community of the realm, who represented 'the Scots', could afford to consider the conceptual side of the country's government. Indeed they had to, in order to protect their own position as the leaders of the people. It was their duty to guide and advise the king in the path which was most in keeping with the expectations of good government; it was their function to ensure that his government, hampered by the weakness of his position, did not run contrary to what they saw as the welfare of the realm.

The various attitudes to Balliol's position in Scotland which have been described above were of great significance in shaping the course of his reign. He was inaugurated on 30 November 1292<sup>46</sup>, and it is from then that the Scots dated his regnal year.<sup>47</sup> As has been noted, the beginning of the reign seemed remarkably normal; a parliament was held almost immediately, in early February 1293<sup>48</sup>, and the business transacted was mostly of an ordinary nature. Edward's persistent intervention in Scottish affairs, particularly in financial matters, must have been irksome, but initially was probably



not thought to be of too great consequence, since it involved matters which were individually of generally minor importance: it may have seemed that the finely balanced rule of the new king had a chance of survival.

However, the situation was to change before long, for even before Balliol had performed homage to Edward I on 26 December 1292<sup>49</sup>, the English king had heard in his court the plea of Roger Bartholomew, a burgess of Berwick, against the justice he had received in the Scottish courts. Having lost several cases brought against him before the guardians, he had appealed against their decisions in the court of Edward I.<sup>50</sup> The Scots were only too well aware of the difficulties of his case, and the bishop of St. Andrews, John Comyn, earl of Buchan, Patrick Graham, Thomas Randolph and other "magnates and nobles of the realm of Scotland, of the council of the magnificent prince, lord John, the illustrious king of Scots" protested to Edward that by hearing this case he failed to uphold the guarantee made in the treaty of Birgham that he would not hear Scottish pleas outwith Scotland.<sup>51</sup> Already, less than one month after his inauguration, Balliol's advisers had come into direct conflict with Edward I, exposing the weakness of the Scottish king's position. The Comyns and other of the king's council had objected to what they regarded as Edward's unjustified assumption of Scottish judicial powers, and had protested to Edward in their own name. This action perhaps reflected the recent past, when, as guardians, some of the nobility had been used to dealing directly with King Edward. More normal practice in such a situation would have been for the community to have approached the Scottish king, who, as their head, would have

written to Edward. However, the community's attitude to Balliol (and perhaps Balliol's own reluctance to risk confrontation with his overlord) rendered it more profitable for them to make their own representations to Edward. His answer, however, had an unmistakeable air of finality and authority about it: only the king of England, he said, could hear appeals against those who deputed for him in Scotland when that throne was vacant, and he no longer intended to be bound by promises made under circumstances which no longer prevailed. He claimed that it was his right as overlord to hear appeals in this way: he had kept his promises, but they had now been rendered void, since the kingdom was no longer in a state of interregnum.<sup>52</sup> A few days later Edward made a general declaration that

"notwithstanding the promises, concessions, confirmations or ratifications which had previously been made by him... which seemed to restrain or bind him in pleas and other affairs relating in any way to the kingdom of Scotland which would be referred to him from that kingdom, he intended to admit and to hear them, and to show complete justice to the plaintiffs therein, in accordance with the superior and direct lordship which he had in the kingdom of Scotland, within the kingdom of England, where and when it pleased him to exercise justice; and furthermore, if necessary, he would call the king of Scotland thereupon<sub>53</sub> to his presence within the kingdom of England".<sup>53</sup>

According to a later account, when Balliol was awarded the kingdom he was warned that

"he should govern and rule the said kingdom of Scotland and its people with such justice that no-one should have occasion to complain about his defaulting in the law, for which, in the future, the said king of England, as superior lord of the said kingdom<sub>54</sub> of Scotland, would have to apply the hand of correction".<sup>54</sup>

Whether this warning was actually given, or whether it was a later justification of subsequent events, is a matter of some doubt. It appears from Edward's reaction to the Scottish protest in December



1292, however, that it was his intention to follow such a policy. On 2 January 1293 Balliol gave in to Edward on this issue, giving letters patent declaring that he, John, for himself and his heirs "and for those who will hold the kingdom of Scotland after us", released Edward and his heirs of all obligations made to the guardians and leaders of Scotland whilst the realm had been in Edward's hands by reason of lordship, before its award to Balliol and Edward's subsequent surrender of its sasine.<sup>55</sup> By this document Balliol effectively acquitted Edward from any obligation to obey, for instance, the terms of the treaty of Birgham, in which the Scots had so carefully attempted to safeguard the liberties of their kingdom; the document of 2 January gave Edward I a carte blanche to intervene at will.

That intervention was not long in coming. In the following months other dissatisfied plaintiffs took their appeals to Edward. On 8 March King John received a summons to appear in England on 8 May to answer an appeal brought by John Mazun<sup>56</sup>, a Gascon merchant who was owed £2197 8s sterling for an outstanding wine and corn bill of Alexander III. It was alleged that, having applied to Balliol for redress, he had found no justice, and so had taken his plea to Edward I, as the superior lord of Scotland. Edward explained that he had no wish to deny a hearing to those seeking justice, and ordered Balliol's compearance before him. On 25 March Balliol was again ordered to attend Edward's court on 24 May to answer the case of MacDuff<sup>57</sup>, the son of the late earl of Fife, who claimed to have been unjustly deprived of the lands left to him by his father. When he had sought justice at Balliol's hands he had been unjustly imprisoned and, even after his release, had obtained no hearing.

Balliol did not attend the Easter parliament to which he had been summoned, and neither did he send a proxy. This act of defiance, probably prompted by the Scottish community, may have been expected by Edward I, who merely repeated the summons for 29 September, and ordered Balliol to bring the written processes of the cases.<sup>58</sup> He warned Balliol that when similar appeals regarding false processes came before him, he would do the same again, and laid down a strict set of rules for the procedures to be followed.<sup>59</sup> If the king of Scots, having been summoned, did not appear on the specified day, he would be judged guilty of contumacy, and cognition of the case would fall entirely to the king of England as overlord. If a judgement given by the king of Scots was confirmed, it had to be according to the will of the king of England and the law and customs of England, supported by good documentation. If the judgement went against the king of Scots, he was at the mercy of the king of England, and had to make restitution to the appellant who, under certain circumstances, would even owe homage for his lands to the king of England rather than to the king of Scots. The king of Scots would have, in that case, no lordship or jurisdiction over their persons, lands or goods. Punishment of the king of Scots for false judgement would be at the discretion of the king of England. These rules were, of course, incompatible with Balliol's status as king of Scots. His council could not lightly allow him to accept such subjection, which could result in his losing even nominal control over Scottish subjects and lands, thus largely nullifying the dignity of the Scottish crown and the status of the kingdom. On the other hand, Balliol was in no position to argue: the conflict, already, was growing deeper.



Edward's concern over the quality of justice dispensed in Balliol's court, however, was matched in Scotland. For example, the bishop of St. Andrews wrote to Edward after the summons to Balliol to answer the Mazun case, explaining that the case had again come to court, and detailing the court process.<sup>60</sup> It is impossible to judge Edward's reaction to this, since the death of Mazun<sup>61</sup> was soon to invalidate the appeal. In the meantime, Balliol submitted suitably sycophantic supplications to Edward, who answered them in correspondingly superior manner.<sup>62</sup>

The second date for Balliol's appearance in England saw him at King Edward's court. It was a peculiar affair, with Balliol vainly trying to appease both Edward I and the Scots. Initially, he held out against Edward's demands, refusing to answer without the advice of the 'wise men' of his council, but also refusing to accept an adjournment to allow the necessary consultation.<sup>63</sup> The English king and his council rejected this insolent lack of co-operation, and declared Balliol to be acting in mockery and hindrance of his superior lord's jurisdiction, and in lesion of the kingly dignity and the crown; he had not acted properly and responsibly before the king, and had thus committed manifest contempt and express disobedience. For this transgression the three main castles and towns of Scotland were forfeit to the king of England until John made redress for his actions.<sup>64</sup> His duty to the Scots done by this gesture of defiance, Balliol, afraid further to incur Edward's wrath, capitulated, reaffirmed his allegiance, and sought an adjournment to allow him to speak to "the greater people" of his realm, so as not to be charged with "default of counsel". Edward agreed, and adjourned the hearing

until June 1294.<sup>65</sup> The difficulty of Balliol's situation had been well exposed in this episode: the interests of his two 'masters' had been in direct conflict. King John must have returned to Scotland with some measure of relief but, nevertheless, the outcome of the hearing, a complete recognition of the English king's jurisdiction over him, can hardly have cheered Balliol's Scottish advisers, nor encouraged them to think highly of their leader's potential.

The appeals, although not over-abundant, continued. In September the monks of Reading lodged a complaint that they had been deprived of the priory of May, and had found no justice in John's court.<sup>66</sup> In November Edward heard a further plea of MacDuff<sup>67</sup>, and a new case from Simon of Restalrig<sup>68</sup>, for both of which Balliol was again summoned to appear in June 1294.<sup>69</sup> In April 1294 a plea of the bishop of Durham was added to the list.<sup>70</sup> The effect of this treatment, together with constant interference in Scottish affairs, must have been a source of great frustration to the Scots. The implication of these complaints, that Balliol was not and, in the present situation, could not be a true 'king' in his kingdom, must have been impressing itself upon his council, who, from their position, saw the problem in a less personal light than Balliol himself, and who may therefore have been more concerned with the conceptual difficulties and the continued firm government of the kingdom.

The climax of the conflict was to be expected at the June 1294 parliament. Again, it may have been with some relief that the Scots heard that due to the steadily worsening relations between England and France, and the impending war, that parliament would not hear the



Scottish cases, which were postponed until May 1295.<sup>71</sup> For a time at least, Edward's attention was directed elsewhere, giving the Scots a breathing-space. In June, however, Balliol, as a vassal of the English crown, was summoned to appear in London on 1 September with an array of his magnates, to join the English army setting out for France.<sup>72</sup> He was also forbidden to allow his ships to sail to the continent.<sup>73</sup>

According to one English chronicler Balliol agreed to help Edward in this campaign, but either through his own disinclination, or through persuasion by his advisers, the aid was not given, and was replaced with "impotent and brief excuses".<sup>74</sup> To add to Edward's problems, in June and July complaints were made to him firstly by "the mayor, reeves and community" of Berwick<sup>75</sup> and then again, later, by King John on their behalf<sup>76</sup>, regarding the dearth in Scotland and the oppression done to the Scots by English seizure of their grain ships. In September 1294 the Welsh rebelled against oppressive English rule, and soon thereafter events seem to have turned in a similar direction in Scotland. The French war had caused Edward to look the other way and, consequently, his grip on Scottish affairs had loosened.

It seems that awareness of Balliol's inability to combat Edward's claims upon him had been steadily growing in Scotland. The war with France and Edward I's other problems presented the Scots with an opportunity to assert their opposition to English superiority, and it is thus possible to see the reins of rule being removed from Balliol's grasp. He was neither able nor prepared to carry out fully the duties incumbent upon him, and so, when the

opportunity arose, those whose duty it was to support the proper government of the kingdom acted in what they saw as the interests of the realm, and removed him from power. Before he retired in December 1294, Pope Celestine V, presumably in response to a supplication, gave the Scots absolution from the duty of obeying oaths which Edward I had extorted from their king by force.<sup>77</sup> Clearly, they were planning an attempt to remove the yoke of English overlordship. Balliol, judging from his past performance, was not likely to lead such a move and, having thus lost the support of the Scottish community, he was set aside. In particular, the Comyns must be held responsible for this move. Balliol depended upon them more than any other section of the community; his failure to implement their policies had lost him their support, leading to a rapid waning of his power. The Scots' actions after their abandonment of Balliol led to direct conflict with Edward I, and thus, no longer of use to either side, Balliol, a victim of circumstance, was ultimately stripped of power and dignity, and was cast out: the real protagonists in the struggle no longer needed him as their go-between.

In July 1295 a Scottish parliament was held (of which no official record survives) at which a council of twelve, four each from the prelates, earls and barons, was elected, "by the counsel and ordinance of which all of Scotland was henceforth to be ruled".<sup>78</sup> This step, the election of twelve peers to rule the land, like a council of regency in a minority or interregnum, was a new departure for the Scots. (To claim that it was "entirely in accordance with Scottish precedents"<sup>79</sup> is quite inaccurate. Never before had the Scots imposed their will on a ruling king in this way.) It is



noticeable that the composition of this governing body was again strongly Comyn-aligned. The Comyn connections of the bishops of St. Andrews and Aberdeen, the earls of Buchan and Strathearn, Geoffrey de Mowbray and John Comyn of Badenoch have already been adverted to.<sup>80</sup> Furthermore, two other members of the committee were related to the Comyns: Donald, earl of Mar, although one of Bruce's main supporters, was, nonetheless, a full cousin of the earl of Buchan<sup>81</sup>, and Alexander Balliol, too, cannot have been anti-Comyn in his sympathies.<sup>82</sup>

This was no coup by an opposing faction: the group who took power from the king was composed of the same men who had been instrumental in giving him that power less than three years earlier. Balliol, through his willingness to accept Edward's overlordship, or his inability to oppose it, had lost credibility, and with it his power and dignity as king. It is no surprise to find that when this group took over full power from the king Scottish policy changed dramatically. The first step was to send an embassy of four (the bishops of St. Andrews and Dunkeld, John de Soulis and Ingram d'Umphraville) to France, to negotiate a treaty of mutual aggression against their common enemy.<sup>83</sup> It is quite possible that, as part of their policy of procuring a set of allies in their struggle against England, it was the French who, recognising the situation in Scotland, made the first moves towards opening negotiations with the Scots. Probably Balliol's reluctance to accept the French proposals, for fear of the repercussions, was one of the factors which prompted the unprecedented move in the July parliament. Certainly, the impression given by the chronicles is that it was the Scots, led by

the twelve peers, who drew Balliol into involvement in the treacherous plan, rather than vice versa. Walsingham says that Balliol was "led" into treason by his subjects<sup>84</sup>, and Lanercost comments that it was the Scots who sent the envoys.<sup>85</sup> Guisborough states that "they" (the Scots) held a parliament which elected the council of twelve and sent the embassy<sup>86</sup>, from which it would appear that it was the Scots themselves, rather than their king, who entered the negotiations with the French. Lanercost further states that at the July parliament "by common assent it was decreed that their king could do no act by himself, and that he should have twelve peers, after the manner of the French, and these they then and there elected and constituted".<sup>87</sup> It is claimed that the Scots prevented Balliol from conducting state business, and from attending Edward's summons, and that they expelled his courtiers.<sup>88</sup> It is impossible to escape the comparison between these events and the establishment of a baronial council to restrain the unpopular Henry III in 1258. The 1295 episode also bears similarities to the appointment of a new regent for the incapable Robert III in 1399, when the barons responsible claimed that "for sickness of his person, the king may not travail to govern the realm, nor restrain trespassours and rebels".<sup>89</sup> Similarly, James III was imprisoned by dissatisfied nobles in 1482. The establishment of the council in 1295 appears to have been the first practical expression in Scotland of the idea that a king who would, or could, not rule the kingdom properly could be subjected to the enforced 'counsel' of the community.

The French treaty was accomplished with speed: on 23 October the envoys, in the name of King John, signed the agreement<sup>90</sup> to "continue



and increase in the future the affection which our progenitors and the community of our kingdom had towards the most excellent kings and kingdom of France", by a marriage of the son of King John to a niece of the French king, and by a pact of mutual aggression against England. The king of France promised help to repress the "grave injuries, huge excesses, hostile attacks, and wicked aggressions" acted upon the Scots by Edward, in return for an undertaking that King John would

"assist us effectively and powerfully... in the present war against the said king of England and his allies... by the whole strength of himself and his kingdom".

The Scots were to "begin and continue war" immediately. Interesting features of the treaty are the clauses which demand that as well as King John, the

"prelates of Scotland, as far as it be lawful to them, with the earls, barons and other nobles and also the whole communities of the towns of the kingdom of Scotland shall have themselves in the said war",

and that ratification of the treaty had to be made by "the prelates, earls, barons and other nobles, and also the whole community of the nobles" of the kingdom. This is surely a recognition by Philip of the situation in Scotland, an acknowledgement of the fact that while John was the nominal head of state, it was actually the community of the realm to which King Philip had to look for a lead in the policy and actions of the kingdom.

The Scots host, in accordance with the treaty, was summoned to muster at Caddonlea.<sup>91</sup> Those who showed themselves to be enemies of the community by disdaining to obey the summons were forfeited (among them the Bruces), their lands being bestowed upon those who would use them in the interests of the national cause.<sup>92</sup> The English host was

already mustering at Newcastle, obviously preparing for the invasion of Scotland.<sup>93</sup> War was at hand.

The reasons for King Edward's invasion of Scotland are probably various. Professor Duncan would have us believe that the war was prompted purely by Balliol's default of justice, following his failure to attend the final hearing of the appeals brought by MacDuff. He was thus judged in contempt and fined three castles as surety that he would eventually answer the case. The castles were<sup>not</sup> delivered up to Edward, who therefore prepared an invasion to take them by force. Edward, it is suggested, was ignorant of the Franco-Scottish treaty, and "it was the Scots who made the aims of the war broader, when the formal denunciation of King John's homage and fealty on the grounds of the English invasion was delivered from Jedburgh to Edward I".<sup>94</sup>

This argument cannot hold ground. It is difficult to believe that Edward did not make it his business to know of the activities of the Scottish parliament and the events of July 1295, and at least the start of the negotiations with France must have been known to him. He must have been aware that a treaty was a strong probability. That the castles demanded by Edward were surety for Balliol's compearance at court, or that they were the reason for the invasion, must also be extremely doubtful. They were, according to a document enrolled in the Rotuli Scotiae, "security for us and our kingdom, and all the subjects of our land", until the end of the French war.<sup>95</sup> The chronicles agree:

"At this time the king of England, ignorant of their treason, sought immediate help for his war from the king of the Scots, but was always answered in the negative. Suspecting their business, he asked for three castles to be placed in his hands until the end of the war, for security, which he would restore to them if they were faithful."<sup>96</sup>



The phrase "ignorant of their treason" in this document must, in the context, refer to the period when he sought the Scots' support, until the summer of 1295. Only after he had suspected their treason (note, earlier in October than the signing of the treaty of Paris), did he demand the castles as security for the good behaviour of the Scots during the war. The invasion was intended not to take the castles - Edward's army was far too large for such a meagre task and, anyway, Edward had more urgent affairs with which to occupy his time and resources - but to punish the Scots for their treasonable activities in John's failure to answer the summons sent by Edward I and in the treaty of Paris. It was an invasion which was designed both to remove the crown from Balliol, who had already been labelled the man who "had been" king of Scots before either the invasion or his renunciation of homage<sup>97</sup>, and to secure England against invasion from a hostile northern kingdom. That the Scots "made the aims of the war broader" by their hostile acts in the north of England and by the renunciation of Balliol's homage is disproved by the early reference to Balliol as 'former' king. Clearly, by 25 March 1296, the day before the Scots invaded England, and over a week before Balliol's renunciation of homage, his deposition had been decided. The sack of Berwick<sup>98</sup>, also before the renunciation of homage, on such a vast and outrageous scale, showed all too clearly how "broad" Edward's intentions were with regard to the deployment of his army in Scotland.

Professor Duncan's theory does not satisfactorily explain the events of the last few months of Balliol's reign. The course of events can be more convincingly explained if one accepts that Edward

did know of the French treaty, and from the outset regarded the military enterprise of March - April 1296 as a full-scale invasion designed to recover the lost allegiance of Scotland and to ensure that there would be no northern threat to England's security during the French war. The root of the conflict lay not simply in Edward's treatment of appeals from Balliol's court and the Scottish king's unsatisfactory behaviour with regard to them, but in their conceptual implications. That such appeals were made at all was a challenge to the dignity of Balliol's kingship and kingdom, which, along with the other acts of minor provocation on Edward's part, caused those behind Balliol's rule in Scotland, the community, and in particular the Comyns, to put pressure on Balliol to resist the demands which English overlordship made on him. In effect, the two leads, pulling Balliol in different directions, strangled him. Unable to satisfy both of his conflicting masters, he satisfied neither, and ultimately lost their support altogether. His pro-English leanings led his Scottish council to revolt and to remove him from power, replacing him with a council of twelve of their number. That council then pursued policies more in line with the traditional rôle of Scotland as an independent nation, so leading the kingdom, and Balliol as its nominal head, into what Edward I regarded as treasonable activities which were of great danger to the dignity of his crown and the security of England. As a test of their allegiance he demanded a 'deposit' of three castles. The demand was ignored, and by February the Scots had seized the lands of Englishmen in Scotland.<sup>99</sup> Thus sure of their treason, and doubtless by then also aware of the details of the French treaty, Edward took reciprocal action, such as



the forfeiture of the English lands of Scotsmen<sup>100</sup>, and prepared to invade Scotland, to remove his recusant and ineffectual puppet-king, and to re-assert his own government over the rebellious Scots. Balliol no longer had any control in Scotland, and Edward recognized this fact when, even before the renunciation of homage, he referred to Balliol as the 'former' king. In reality, the war was not against Balliol, but against the community of Scots.

As Edward's army moved north, the Scots prepared to defend themselves, and, following the time-honoured pattern, launched a counter-raid in the north of England.<sup>101</sup> The English army pressed on, however, and on 30 March 1296, in the sack of Berwick, committed one of the most ruthless and horrific acts of war in the annals of Anglo-Scottish relations. In reaction to this outrage, the Scots 'advised' Balliol to renounce his homage. This he did on 5 April<sup>102</sup>, styling himself "king of Scots by the grace of God", and justifying his act by quoting "naked force, grievous and intolerable injuries" used against him and his people, causing "harm beyond measure to the liberties of ourselves and of our kingdom, in a manner which offends against God and against justice". He quoted examples of unacceptable acts committed by Edward in his guise of self-appointed overlord: calling Balliol out of Scotland, unjustifiably persecuting him, seizing the castles, lands and possessions of Balliol and of his people within the realm of England, harassing merchants, and imprisoning Scottish subjects. All this was done "to disinherit us and the inhabitants of our realm". Furthermore, Edward had now invaded in hostile fashion, forcing Balliol to withdraw his homage and fealty, "which, be it said, were extorted by extreme coercion on

your part", and to take up arms "for our own defence and that of our realm, to whose defence and safe-keeping we are constrained by the bond of an oath". Here, at last, was overt reference to the duty of a king to protect his kingdom: in the last resort his council had forced Balliol to adopt the stance of a king in an attempt to preserve Scotland's status as a kingdom.

Thereafter, Edward had no lack of cause to continue the invasion, which pressed on, through the battle of Dunbar and the taking of the main castles and towns of Scotland, to its climax in the ceremonial removal of King John from office on 2 July, and the submission of the community to Edward's power which followed.<sup>103</sup> The stripping away of John's power and dignity was merely a formal recognition and ratification of what had already taken place in July 1295. The political act, the submission which mattered, was that of the nobles of Scotland, whose brief rule ended in July 1296, bringing Scotland back into the category of a dependent state, ruled from England.

This account of the events of July 1295 - July 1296 agrees both with Edward's own account<sup>104</sup> and with the picture which can be pieced together from the wide range of chronicle evidence. The final act, the ceremonial removal of the dignity of the crown from King John, must be seen as the culmination of the conflict between the Scottish nobility and Edward I, the conflict between the conceptual and the more straightforwardly political attitudes towards Scotland. Balliol's statement of submission again displays the conceptual element in the holding of the kingdom. He had offended Edward, having been led into treason through bad counsel, and so, having been



brought to justice by the just conquest of the country, he freely submitted both himself and his kingdom to Edward's will. The reference to the king's council is double-edged, referring both to the necessity for a king to use counsel of his nobility - the right and duty of the community to share in the government of the kingdom - and to the particular situation in this instance, where that noble advice having overstepped the normal bounds of its power, the king had been drawn into a situation which, in Edward I's eyes, warranted the formal removal of his dignity.

In July 1296, with his submission to Edward I, John Balliol's reign formally ended. Despite later claims by the guardians who ruled in his name that the submission was extorted by force, and was thus invalid, or that it was a forgery<sup>105</sup>, there can rarely have been much honest hope that his personal rule could be resuscitated. The removal of real power in July 1295 by those who had given it to him, the noble community, led by the Comyns, had been ironically re-affirmed by their opponent, Edward I, who in July 1296 removed the nominal power and dignity which had been of his bestowal. Scotland was, in effect, once more in a state of interregnum. This time Edward had no intention of resolving that situation by instituting a vassal king. The events of the previous four years had shown that the dual loyalties that such a figure would necessarily hold would make stable and secure government an impossibility. The king would again become a tool with which the community would attempt to re-assert their independence.

The reasons for those dual loyalties were, ultimately, the very concepts of 'king' and 'kingdom' which, far from being the surrealist

fantasies of theorists, were the actual foundations on which the government and rule of the kingdom were consciously built. The Scots in 1292 had been "neither happy nor sad about the adoption of their new king"; it is not difficult to imagine the same mixture of feelings at the same king's downfall in 1296. The invasion and impending foreign domination of the kingdom can have given them no cause for rejoicing, but on the other hand, they cannot have been too disappointed at the demise of the reign of such a king. Eventually Balliol had become a rex inutilis, a king who could or would not fulfil his duty to the kingdom. To the Scottish community, a kingdom was indisputably a state which was independent of foreign control, ruled by a king who was supreme in his realm and who governed with sound advice from his nobles. The king had to protect the kingdom from tyranny, which could take the form of unjust rule or lawlessness within the kingdom, or the usurpation of government by a foreign power. John Balliol failed to fulfil his duties as king, and thus endangered the status of his kingdom, which led to open conflict between Edward I and the Scottish community. His reign brought about the direct confrontation of two different ideas of what Scotland was and should be. It was a confrontation which was to strengthen the Scots' resolve to fight for, and eventually to re-affirm, the independence of their kingdom.

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NOTES

- 1) G.G. Simpson, 'Why was John Balliol called "Toom Tabard?"', in S.H.R. 47 (1968), pp.196-99 at p.198.
- 2) For a discussion of this period see Duncan, Scotland: The Making of the Kingdom, pp.230-35.
- 3) Scots Peerage IV, pp.142-43.
- 4) Chron. Bower (II, p.92) states that there were, at one point, three earls and thirty-two knights of the name Comyn.
- 5) The sheriffdoms (at least) of Ayr, Dumbarton, Stirling, Wigtown, Jedburgh, Berwick, Roxburgh, Perth, Banff and Aberdeen were held by 'Comyn men' in this period. (Exch. Rolls. I, pp.35-51, and see Appendix 1 and table facing p.112.)
- 6) Barrow, Kingdom, pp.137-38.
- 7) Ibid.
- 8) Stones and Simpson, Edward I II, p.138.
- 9) See Appendix 1. It seems impossible to find a similar pattern in the list of Bruce's auditors.
- 10) See Appendix 1, and table facing p.112.
- 11) A.P.S. I, p.453.
- 12) John Comyn, earl of Buchan, John Comyn of Badenoch, Alexander Comyn of Buchan; Malise, earl of Strathearn, Geoffrey de Mowbray; Herbert Maxwell, Patrick Graham, Nicholas Graham. See Appendix 1, and table facing p.112.
- 13) Barrow, Robert Bruce, pp.54-56 has a discussion of the auditors chosen by Bruce and Balliol.
- 14) A.P.S. I, p.447.
- 15) Ibid.
- 16) Alexander Macdougall, lord of Argyll (Lorne) and the earl of Ross (Skye). The third sheriff was James the Steward.
- 17) A.P.S. I, p.445.
- 18) Ibid., pp.445-46.

- 19) Ibid., p.448.
- 20) Ibid.
- 21) Ibid., p.447.
- 22) For full treatment of the rex inutilis, see E. Peters, The Shadow King: Rex Inutilis in Medieval Law and Literature, 751-1327.
- 23) Chron. Fordun I, p.322 (II, p.315).
- 24) Regiam Maj., pp.57-58.
- 25) Linehan, Spanish Manuscript, p.118.
- 26) See Chapters 4-6 for the continued rule of the kingdom in Balliol's name. There is no evidence which suggests that Balliol's acts were regarded as invalid either during his own reign or even, despite the propagandist attitude to King John, in the reign of Robert I.
- 27) Stones, Documents, p.[79].
- 28) Rot. Parl. I, p.18.
- 29) There was, generally, a certain elasticity in the full application of English law to the kings of Scots in their capacity as English barons. See, e.g. Cal. Docs. Scot. II, nos.106, 150.
- 30) Rot. Scot. I, p.12.
- 31) Ibid., p.13.
- 32) Ibid., p.14. See also Ibid., p.13 (10 December 1292): a gift of the marriage of the son (David) of the late William Brechin, who had held in chief of the kingly dignity of Scotland.
- 33) Ibid., p.14.
- 34) Ibid., p.15.
- 35) Ibid., p.11 (18 November 1292): the formal notification of Balliol's award of the kingdom saved to Edward I any "reliefs and debts whatsoever of the fruits of the kingdom of Scotland until the present day".
- 36) E.g. Ibid., pp.16-22 passim.



- 37) Ibid., p.16.
- 38) Chron. Walsingham I, p.43.
- 39) Barrow, Robert Bruce, p.69.
- 40) See above, p.78 (A.P.S. I, p.449).
- 41) Stones and Simpson, Edward I II, p.30.
- 42) Stones, Documents, pp.[44-50].
- 43) Rot. Parl. I, p.113.
- 44) A.P.S. I, pp.474-75.
- 45) No fewer than seven of Bruce's auditors were signatory to the treaty of Paris: the bishops of Glasgow and Dunkeld, the earls of Mar and Atholl, James the Steward, Nicholas Graham and Alexander Bonkle. Furthermore, John de Soulis and Walter Lindsay, also auditors for Bruce, are found as witnesses to acts of King John (A.P.S. I, pp.451-53; Glasgow Registrum I, p.212; Spalding Club Miscellany II, pp.313-14).
- 46) Chron. Fordun I, p.321 (II, p.315); Stones and Simpson, Edward I II, pp.279-80.
- 47) See Appendix 2.
- 48) A.P.S. I, p.445.
- 49) Stones and Simpson, Edward I II, pp.260-61.
- 50) Rot. Parl. I, pp.107-10.
- 51) Stones and Simpson, Edward I II, pp.264-67.
- 52) Ibid.
- 53) Ibid., pp.268-69.
- 54) Ibid., p.248.
- 55) Ibid., pp.270-72.
- 56) Rot. Scot. I, p.17.
- 57) Ibid., p.18; Rot. Parl., p.111.
- 58) Stones and Simpson, Edward I II, p.282; Rot. Parl. I, pp.110-11.

- 59) Ibid.
- 60) Cal. Docs. Scot. II, no.688.
- 61) Palgrave, Docs. Hist. Scot., pp.138-41.
- 62) Ibid.
- 63) Rot. Parl. I, p.113.
- 64) Ibid.
- 65) Ibid. (The record of John's compearance in Edward's court is translated in Stones, Documents, pp.[65-67].)
- 66) Rot. Scot. I, p.19.
- 67) Ibid., p.20.
- 68) Ibid., pp.19-20.
- 69) Ibid.
- 70) Ibid., p.20.
- 71) Stones, Documents, p.[67].
- 72) Foedera I, p.804.
- 73) Ibid., p.801.
- 74) Chron. Guisborough, pp.243, 264.
- 75) Cal. Docs. Scot. II, no.696.
- 76) Ibid., no.697.
- 77) Chron. Guisborough, p.270.
- 78) Ibid., p.264. See also Chron. Walsingham, p.52; Chron. Lanercost, p.162; Chron. Langtoft, p.221; Scalachronica (Maxwell), p.14.
- 79) J.H. Ramsay, The Dawn of the Constitution, p.417.
- 80) See above, pp.111-12, and Appendix 1.
- 81) See table facing p.112.
- 82) The other members of the council were the bishops of Glasgow and Dunkeld, the earl of Atholl, and James the Steward. (See Barrow, Robert Bruce, p.90 n.2)).



- 83) Foedera I, pp.830-31. See also R. Nicholson, 'The Franco-Scottish and Franco-Norwegian Treaties of 1295' in S.H.R. 38 (1959), pp.114-32.
- 84) Chron. Walsingham, p.52.
- 85) Chron. Lanercost, p.161.
- 86) Chron. Guisborough, p.264.
- 87) Chron. Lanercost, p.162.
- 88) Ibid., p.171.
- 89) A.P.S. I, p.572.
- 90) Ibid., pp.451-53.
- 91) Chron. Lanercost, p.169.
- 92) Chron. Guisborough, pp.269-70.
- 93) Parliamentary Writs I, pp.275-77; Cal. Docs. Scot. II, no.727; Cal. Close Rolls Edward I, 1288-1296, p.501.
- 94) W.C. Dickinson and A.A.M. Duncan, Scotland from the Earliest Times to 1603, pp.151-52, 154.
- 95) Rot. Scot. I, pp.21-22 (12 and 16 October 1295).
- 96) Chron. Walsingham, p.53.
- 97) Stones, Documents, pp.[68-69]. 25 March 1296: Johan de Baillol, qui fust roy d'Escoce.
- 98) Chron. Guisborough, p.275. Note also that Ibid., p.270, states that Edward I knew of the Scots' treason when he heard of their release by the pope from oaths taken by Balliol under duress, which release was obtained before December 1294.
- 99) Ibid., pp.269-70.
- 100) Cal. Docs. Scot. II, no.718; Cal. Close Rolls Edward I, 1288-96, p.466.
- 101) Chron. Guisborough, pp.276-77; Chron. Lanercost, p.173.
- 102) Stones, Documents , pp.[70-72].

- 103) Ibid., pp.[73-74]; Stevenson, Documents II, pp.25-32; Cal. Docs. Scot. II, no.823.
- 104) Stones and Simpson, Edward I II, pp.279-92.
- 105) E.g. Bisset's Processus (Chron. Pluscarden I), p.217.

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## CHAPTER FOUR

### THE GUARDIANSHIPS OF 1286 - 1306

#### 1: PERSONALITIES AND ELECTIONS<sup>1</sup>

"Vacant and without a head and torn to pieces, widowed so to speak, of a king of its own, and... lacking the protection of any defender".<sup>2</sup>

This brief description of Scotland in the year 1291 implied that the kingdom without a king was a weak, helpless and pathetic entity, unable to defend itself against the depredations of evil and ambitious neighbours. For propagandist purposes it suited the Scots to portray themselves at that time in the role of defenceless innocents, preyed upon by hungry predators. They shared, of course, the intuitive medieval belief that a kingdom must have a king, but in the supremely practical outlook which characterised their actions throughout the difficult period of 1286 - 1314 the Scots used and modelled that belief to suit different circumstances. In 1291, when asked to acknowledge Edward I's superiority over Scotland, the community of the realm answered that it could not commit itself upon such a weighty question without the consent of a king:

"they have no power to reply to your statement, in default of a lord to whom the demand ought to be addressed, and who will have power to make answer about it".<sup>3</sup>

It appears that only a monarch could decide on the correct course of action in a matter so closely concerning the status of the realm. Noticeable, however, is the fact that King John also felt a duty to consult the community on such issues<sup>4</sup>, and that when he did appear to

be in danger of jeopardising the realm's status, the same community which in 1291 had found itself incompetent to deal with such affairs had no compunction in effectively removing their 'lord' from power, and attempting to settle the matter themselves. Apparently the degree of helplessness which affected the community of the realm depended very much upon the prevailing political circumstances.

Nevertheless, after the death of Queen Margaret in 1290 Scotland was without an established heir to the throne, 'without a head'. The country had entered the constitutional twilight zone of the kingless kingdom. This was a new situation, and instability and uncertainty were thus inevitable. However, the the problem was at least partially resolved, with relatively little trouble, in a fairly short space of time. But the deposition of John Balliol in 1296 left Scotland without a king once more. On this second occasion the country was to remain in the same state for almost ten years, and much blood was to be shed before the kingdom re-attained any measure of constitutional normality. It is a sign of the great reverence attached to the ideas of 'king' and 'kingdom' that these interregna are extremely fruitful periods for the study of Scottish kingship; even without the physical presence of a king, the idea that because Scotland was a kingdom there was, ergo, a king, somewhere, was current in the late thirteenth and early fourteenth centuries: 'royal dignity' never disappeared.

This study of guardianship is made from the Scottish viewpoint, and is concerned with the government of Scotland by Scottish administrations. Those episodes during which Scotland was submerged under English administration are not, therefore, subject to detailed



study; they should be examined rather by one whose topic is English imperial administration. The fact that during the second interregnum the Scottish administrations were seen by some as illegal and rebellious, may seem to draw a distinction between them and the guardianship of 1286 - 1291. The first guardianship was the logical and legal result of the death of the monarch, and, initially was not a government in interregnum, but was a regency for a minor and absentee monarch; the Scottish administrations of the second interregnum, on the other hand, were spontaneous assertions of independence, which had to be established and maintained by force of arms in the face of foreign opposition. However, when seen from the Scots' point of view, the divide diminishes; the guardians regarded the rebellious governments of 1297 - 1306 as continuations of the legal, de jure royal administration of Scotland. That they were from time to time suppressed was, to the Scots, an unfortunate and illegal result of the intermittent invasion of their land and the usurpation of their government by a powerful and ambitious neighbour. Just as in 1286 - 1291, the Scottish governments of 1297 - 1306 saw themselves as caretakers of the land for the rightful monarch to assume when he re-appeared. The comparative success of the at times rival governments of Scotland is therefore not part of this study: it would be interesting to assess their respective powers and achievements, and the reactions to them, but that is a subject which must be dealt with elsewhere.

On the death of Alexander III in 1286 a new type of government was adopted in Scotland, which was to be used in various forms at certain times throughout the following twenty years. The government chosen in 1286 continued after the death of Margaret in 1290, weathering the change from minority to interregnum with apparent ease: it came to power, and remained in power, with relatively little difficulty. The situation after the deposition of King John in 1296, however, was rather different. The country had been overrun and occupied by a foreign invading force which had established a largely foreign administration. It took some time before rebellion against this usurpation freed the country, to a considerable degree, of foreign intervention, and re-established native government. In both cases, however, the government set up by the Scots was headed by guardians (custodes) who normally claimed to have been elected by, and to govern with the authority of, the community of the realm. These credentials were specified in their official styles, often with the addition of the name of the king in whose place they claimed to rule. Thus the style used by William Fraser, bishop of St. Andrews, Robert Bruce, earl of Carrick and John Comyn<sup>5</sup>, writing to Edward I in November 1299, was

"guardians of the kingdom of Scotland in the name of the most worthy prince, the lord John, by the grace of God illustrious king of Scotland, elected by the community of that realm".<sup>6</sup>

The people of the realm, through their natural leaders, those politically active members of the 'upper classes' in both secular and ecclesiastical society, had chosen the individuals from amongst them whom they considered to be the most suitable to defend the realm and the 'royal dignity' of Scotland during the absence of a monarch.



To investigate further how these men were chosen, according to what criteria, and to what extent the choice was a free one, it is necessary to examine each guardianship in turn.

The chronicler Fordun says that the guardians of 1286 - 1291 were elected by "the clergy and estates of the whole kingdom of Scotland, in a parliament held at Scone".<sup>7</sup> The Chronicle of Lanercost basically agrees with this:

"After so evil a fate as the death of their king, the magnates of the realm of Scotland, adopting sound counsel for themselves, elected from the prelates as well as the nobles, guardians of the peace for the community... They governed the country<sup>8</sup> for six years, transacting the affairs of the people".

Quite clearly, the choice of guardians in 1286 was made in a comparatively democratic manner. The parliament met, and chose from its number six men who were esteemed to represent fairly the interests of the kingdom. Probably in a truer sense than any of the later guardians, they were elected by the community of the realm. This was a new pattern of events in Scotland, for in previous minorities power had gone to whichever faction or family could command most support. But in 1286 there was a mature and calculated attempt to establish rule which crossed factional barriers. The six men chosen, William Fraser, bishop of St. Andrews, Duncan, earl of Fife, Alexander Comyn, earl of Buchan, Robert Wishart, bishop of Glasgow, John Comyn of Badenoch and James the Steward, were probably chosen to provide a balance in the government between those supporting each of the two main factions in the country at the time, the Bruces and the Balliols. Robert Bruce and John Balliol would be the strongest contenders for the throne should Margaret not survive,

and as early as the 1286 parliament they had both reminded the country in no uncertain terms of their families' claims.<sup>9</sup> Fordun further states that three of these guardians (Fraser and the two earls) had responsibility for that part of Scotland north of the Forth, and that the others (Wishart, the Steward and Comyn of Badenoch) were to represent Scotland south of the Forth.<sup>10</sup> Perhaps more importantly, there was also an equal representation of the main social divisions of the kingdom: two bishops, two earls and two barons. Furthermore, the choice reflected the reverence given to well established and recognised families and offices: the Comyns were the most influential baronial family in the country, and had led the government during part of the minority of Alexander III; the bishoprics of St. Andrews and Glasgow were the most important in the land, and in 1286 their incumbents both had backgrounds of considerable political and administrative experience; Fife was the foremost earldom, always accorded a special position close to the crown, and although the earl himself was young and inexperienced in 1286, his family's reputation would be enough to secure him his position; finally, the Steward was the holder of that ancient and esteemed household office from which his family had taken its name.

The choice of guardians in 1286 thus appears to have been a true election, wisely made. It took account of the main political and social interests of the country. If any government, in what promised to be a difficult period, could maintain stability, it was one such as that. As it turned out, it was remarkably successful in achieving its aim of guarding the peace of the kingdom.



When Margaret died in 1290, the four remaining guardians<sup>11</sup> continued to rule until the claimants to the throne accepted Edward I's claim to be overlord of Scotland in 1291. The guardians had no option but to follow suit, and resigned on 11 June.<sup>12</sup> They were then re-appointed, their numbers being augmented by the inclusion of Edward's own nominee, Brian fitz Alan.<sup>13</sup> Their new style showed that their authority was derived not from the Scottish community, but from the English king:

"guardians of the kingdom of Scotland, constituted by the most serene prince, the lord Edward, by the grace of God illustrious king of England".<sup>14</sup>

The castles and kingdom of Scotland had been handed over to Edward and, by the guardians' resignation and re-appointment, the government was now his also. Entering the category of an English administration, it therefore passes outwith the scope of this study.

The next guardianship had its foundations laid in a rather different manner. After John Balliol had earned his epithet 'Toom Tabard' in July 1296, Edward I made his lap of honour in Scotland, and retired to Berwick, "where the magnates of the kingdom of Scotland and Galloway came to him, and he received their homage and fealty".<sup>15</sup> He then ordained a new government for Scotland, appointing new officials, and establishing Berwick as his administrative headquarters for Scotland, after which, grasping the various spoils of war which he had taken "as a sign of a kingdom resigned and conquered"<sup>16</sup>, he turned southwards, probably prematurely congratulating himself, believing that 'there was an end of ane auld sang'.

Within a short time of his return to England in September, however, Edward's governors in Scotland were running into difficulties. Discontent was probably rife in various parts of the country throughout the winter of 1296 - 1297<sup>17</sup> but the first open admission of disturbance appears in the spring of 1297. In April, for instance, Edward ordered his men in Argyll and Ross to help Alexander of Islay to arrest and imprison

"certain malefactors and perturbers of our peace, who wander and move about in divers places in those parts, not ceasing from daily perpetrating murders, spoliations, burnings, and many other damages against our peace".<sup>18</sup>

This letter implies that such trouble had already been occurring for some time, and it is very unlikely that it was restricted to one area.<sup>19</sup> By May, there was open revolt. Most of the chronicle accounts ascribe this rebellion to a sudden rising in May 1297, and some of them specifically state that the Scots took advantage of the departure of Edward I for Flanders to raise themselves in revolt.<sup>20</sup> Fordun, on the other hand, implies that they never had any thought of doing otherwise, claiming that as soon as Edward left Berwick in September 1296 the magnates summoned a parliament at Scone, where they appointed twelve guardians "to guard and defend the freedom of the kingdom".<sup>21</sup> This statement is obviously inaccurate, perhaps referring properly to the council elected to govern Balliol in 1295. However, between the two extremes must lie the truth. The Scots were restless under their new rulers, and a certain amount of civil disobedience must have taken place throughout the winter and spring of 1296 - 1297. In two areas, the south-west and Moray, these disturbances grew in strength, supported by at least some of the nobles of those areas. At first, in the south-west, noble support



was tacit. The attacks by Wallace, who had doubtless established his courageous reputation throughout the troubled winter months, on the English sheriff of Lanark and the justiciar Ormsby, were probably part of a planned insurrection carried out under Wallace's immediate leadership, but with the guiding force coming from men of considerably higher political and social standing. The Lanercost chronicler is probably fairly near the mark when he blames the bishop of Glasgow and the Steward for promoting Wallace's rebellion:

"Robert Wishart, ever foremost in treason, conspired with the Steward of the realm, named James, for a new piece of insolence, yea, for a new chapter of ruin. Not daring openly to break their pledged faith to the king, they caused a certain bloody man, William Wallace, who had formerly been a chief of brigands in Scotland, to revolt against the king and assemble the people in his support".<sup>22</sup>

The account in the Chronicle of Meaux, although less specific, seems broadly to agree with this:

"the magnates of Scotland did not dare publicly to rise against King Edward, but attempted secretly to free themselves from royal servitude through the commons and this William [Wallace]".<sup>23</sup>

Eventually, men such as Robert Wishart, the Steward, Robert Bruce and William Douglas did show themselves openly. Their part was short-lived, however, since in the face of an English army they gave a conditional surrender at Irvine in July.<sup>24</sup> Although the terms for their reception into Edward's peace were not in fact fulfilled by either Bruce or Douglas, the latter of whom was imprisoned for his non-compliance<sup>25</sup>, their active part in the 1297 rising was over. It is nevertheless interesting that they carried on the negotiations concerning the surrender in the name of the community of the realm, complaining of the exactions which they feared Edward would make of

the Scots.<sup>26</sup> In this, they appear to have been taking it upon themselves to defend the interests of the realm thus threatened, which was the traditional rôle of the nobility in government, particularly when the king, for whatever reason, was unable to rule. In speaking for the whole community they were closely emulating the official style adopted by elected guardians, and whilst the only evidence that they might actually have been guardians is Fordun's rather implausible tale, it is not impossible that they saw themselves, de facto, in that rôle.

As guardians, they would have had more to do than simply speak for the community: they would have had a government to run. That they did start to establish an independent Scottish administration in 1297 is beyond doubt<sup>27</sup>, and, therefore, it is probably fair to regard these men, in the early months of 1297, as forming a sort of embryonic guardianship.<sup>28</sup> That it was not themselves who actually reaped the benefit of their work and gained the title 'guardian' was due to their apparent re-acceptance of English overlordship. How real that acceptance was is open to question, but it was enough to prevent their taking charge of a Scottish administration, whether by election or self-appointment.

While all this was happening in the south-west, another revolt was taking place in Moray, with more open baronial support. It was led by Andrew Moray, son of Andrew Moray of Petty who had supported Balliol in his quest for the throne. The Scots nobles who had been commissioned to help the English officials in the area quell the rising seem to have acted with singular lack of enthusiasm, and revolt spread quickly in the summer months, most of the English



garrisons in the north having to surrender their castles to Moray and his following, who appear, like the forces raised by Wallace, to have been mostly commoners: ordinary townspeople, folk of the land, and at best burgesses.<sup>29</sup>

That these two risings happened at the same time and followed such similar patterns, with the reduction of castles and the removal of English officials as the primary aim, suggests that rather than being the spontaneous reaction to oppressive rule, which is still the most generally accepted view, the risings were both part of a concerted plan, masterminded perhaps by Wishart and the Steward, to replace the English administration of the kingdom with a native one, under their leadership. Further weight is added to this suggestion by the simultaneous occurrence of yet another similar rising, which, although unsuccessful, nevertheless supports the idea of a pre-arranged, carefully co-ordinated campaign. On 1 August the earl Warenne, Edward's lieutenant in Scotland, informed his master that MacDuff of Fife (a younger brother of the earl of Fife who had been murdered in 1289) had been caught, and would be treated "as one ought to treat cheats and traitors".<sup>30</sup> In June, the same MacDuff had been forfeited because he was by then known to be a rebel.<sup>31</sup> Clearly, Fife too had been involved earlier in the summer. Probably MacDuff, in the absence of an earl (who, a minor, was in ward in England), had taken it upon himself to lead out the earldom's army, the 'men of Fife', in defence of the realm. According to Guisborough, Bruce, when he declared himself, brought out his 'army of Carrick'.<sup>32</sup> Wallace's own force was probably made up of the Steward's following, of whom Wallace himself was one. Thus the forces led in these

risings of 1297 were not merely popular rabbles who adhered to adventurers on the strength of the reputation which they had gained through their daring exploits: they were the forces which the nobles of the country always brought out when summoned, whether by king or guardian. One particular summons, probably dating from 1286, specifies that the host was to be raised "for the tuition, conservation and defence of the realm and the kingly dignity, and the freedom thereof".<sup>33</sup> This is similar to the tone of the documents concerning the capitulation at Irvine in July 1297. On that occasion the 'rebels' had risen to protect their country from great damage and destruction. Fordun, too, said that in 1296 the purpose of the election of guardians was "to guard and defend the freedom of the kingdom"; when there was no king, the work of defending the kingdom's interests fell upon the community led by the nobles, and the institution which in this period was used to that end was that of guardianship. In 1297 Wishart and the Steward were attempting to re-establish their positions as the elected guardians of Scotland. It was their duty; they had previously been chosen to be guardians and, although that election had previously been annulled by the inauguration of a king, when, in 1296 - 1297, a guardianship was again required, they were clearly the most likely candidates. However, before the community could gather itself sufficiently to hold a parliament at which re-election of guardians could take place, leadership, to free the country at least partially from the hold of the English, was necessary. Wishart and the Steward attempted to provide that leadership, setting themselves up as guardians, doubtless in the expectation that the formality of their election



would follow when possible. Those hopes were shattered by their loss of nerve in the face of the English army. Of the other two remaining guardians from 1286 - 1291, John Comyn was restricted in his actions by the fact that he had been imprisoned in England after Edward's conquest in 1296. He was released in June 1297 in order to return to Scotland to settle his affairs, on condition that he accompanied Edward on the expedition to Flanders.<sup>34</sup> Whilst on his journey northwards with his kinsman, the new earl of Buchan (who was in a similar position<sup>35</sup>), Comyn received fresh orders. He was to stay in Scotland to help crush the rebellion in Moray.<sup>36</sup> The Comyns appear to have carried out this task with little more than apathy<sup>37</sup>, but it is still fair to say that the ex-guardian was not free to join the patriots whilst subject to the close attention of Edward and his officials. Bishop Fraser, the fourth former guardian, had been sent to France in 1295 as one of the Scottish ambassadors, had not returned, and died at Auteuil near Paris in August 1297<sup>38</sup>, never having rendered his homage to Edward I.

One of the documents regarding the surrender at Irvine<sup>39</sup> seems to group Wishart, the Steward and the earl of Carrick together, set apart from Douglas and the others. In view of this, it is not unlikely that Bruce was himself staking a share in the guardianship. The bishop and the Steward were both Bruce supporters<sup>40</sup>, and would thus probably have welcomed him as a colleague, especially since his inclusion would have brought to the guardianship the old social balance of one bishop, one earl, and one baron. Perhaps Bruce saw guardianship as a useful step on the way to the throne, which he considered should have been awarded to his grandfather in 1290. His

family had been excluded from the guardianship in 1286, a fact which had led Bruce the competitor to rebellion in that year<sup>41</sup>, and so in this attempt to revive the Scottish administration after his family's rival, Balliol, had failed to maintain the authority of the crown, Bruce was taking the opportunity to re-assert his family's position. (It must be remembered, however, that in 1297 Bruce could not claim the throne for himself. Until the death of his father, in 1304, the earl of Carrick had no personal right to the throne, and in 1297 he was simply asserting the right of his family.) That he had not been elected to the guardianship was of little consequence. Had this triumvirate been successful in arms, in any future election process the community would probably be only too glad to elect these three men, two of whom had previously been guardians, the third of whom would in the future have a strong claim to the throne itself, and all of whom together had raised the country in arms to throw off the oppression of the occupying regime.

The course of this rebellion in 1297 has been recounted in order to show the way in which a government of guardians might have been established by these three men. Doubtless, once their position had been constitutionally affirmed, they would have styled themselves 'guardians elected by the community of the realm', but in truth the election would have been more nominal than actual, based on their de facto leadership resulting from success in arms, rather than on any common feeling of political expediency. However, their aspirations appear to have exceeded their military leadership, which was inept, and collapsed at the first appearance of an opposing force, putting paid to their hopes of asserting Scottish independence in a



government headed by themselves. Instead, they appear to have reverted to the old method of working behind the 'front' of a popular rising. Their acceptance of Edward's peace terms was superficial, and they continued to plan and support the insurrection which reached its climax with the victory of Andrew Moray and William Wallace at Stirling Bridge on 11 September.<sup>42</sup>

This battle, the culmination of almost a year's rebellion, enabled the Scots to put the finishing touches to their own independent government. Almost all of the castles fell to them<sup>43</sup>, the remaining English officials were removed, and the Scottish administration swung into full action. It is noticeable, however, that the final formality was somewhat delayed: there is a gap of some seven months after Stirling Bridge before Wallace is found using the style 'guardian'.<sup>44</sup> Long before that, however, in November 1297, he (along with Andrew Moray) claimed to act with the consent of the community of the realm.<sup>45</sup> The earliest known document issued by Wallace and Moray, the famous letter to the burgesses of Lübeck and Hamburg<sup>46</sup>, merely styled them 'leaders of the army of the realm of Scotland', although it was issued in the name of the community of the realm as well as those of Wallace and Moray. They clearly spoke for the community, but, at that stage, not necessarily with its full consent. After Stirling Bridge there was no immediate parliament, for more important business had to be attended to first; in order to strengthen the realm's defences against the English, the campaign against the remaining English-held castles continued<sup>47</sup>, and over the winter months a fairly large-scale invasion of northern England was undertaken<sup>48</sup>, which brought the Scots some spoils of war, some

propagandist advantage, and, in the short term, relative freedom from the danger of attack from the south. Thus, when Wallace and Moray styled themselves 'leaders of the army' they were stating no more and no less than their true credentials. They had not been elected guardians, but did in fact lead the government and the community in virtue of their military achievement. Under their leadership the realm had been 'recovered by war from the power of the English'. The position which their military success accorded them made allowable their claim to speak for the community. In November, however, they claimed to speak 'with the community's consent'. This may imply a change in their position. If a parliament had been held at which their position had been constitutionally regularised, it would probably have figured in some source, and they would have been styled 'guardians'. It is more likely that they added the community's consent to their style because in the space of two months after the battle their leadership had not been challenged. Such acquiescence on the part of the community, probably with the active support of a section of it, comes close to the real consent which they claimed.

Because of the pressing military business, their position (or, rather, Wallace's position, since Moray died in November, as a result of wounds sustained at Stirling Bridge<sup>49</sup>) does not appear to have been formally confirmed until March. It is possible that some delay was also caused by suspicion of Wallace on the part of some of the nobles. Traditionally it has been assumed that the nobles would not wish to bow in obedience to a government led by a man of lower social standing, who would not normally have been accorded such high political position. This idea has been supported by chronicle



accounts of his career, which picture him having to browbeat the nobles into submission. In particular, accounts of the battle of Falkirk have described a state of jealousy between Wallace and the nobles.<sup>50</sup> Perhaps more than any of these, Blind Hary's portrayal of Wallace as being most at home with common folk, and especially his story of Wallace's quarrel with the earl of Dunbar<sup>51</sup>, has fostered this belief. The nobles may indeed have been uneasy about Wallace. While certainly not an illiterate commoner, it cannot be denied that he was not of the rank with which they would normally associate such high position. Clearly, it had been no part of the plans of Wishart, the Steward and Bruce to proclaim Wallace guardian. Thus the delay in holding the parliament may have been connected with an element of uncertainty on the part of the community regarding the qualifications of their new leader. A weightier consideration, however, must have been more practical in nature, and, in view of the military activity, it is doubtful whether the community could have been summoned to formalise the position much earlier than March.

At a meeting of parliament at Torphichen on 29 March<sup>52</sup>, Wallace was formally elected guardian by the community of the realm, and decrees were then issued under the name of Wallace as guardian in the name of King John. Suspicion of him there may have been, but he had led the community in arms to victory, a feat not achieved by those of higher status. There is little doubt that in the early months of 1298 most of the Scottish nobility supported Wallace; the old myth that the nobles were on the English side does not stand in the face of the evidence<sup>53</sup>, and even those nobles, we are told, who appeared to be on Edward's side, were with Wallace at heart.<sup>54</sup> Nevertheless,

his power and recognition as leader rested on this sole qualification of victory in battle, a fact which is emphasised by his retention of the style 'leader of the army'.

Just as Wallace's political status was gained by military success, it was lost by military failure. Edward I was not a king who would allow rebellion to go unpunished, and in March 1298 he returned from Flanders with the intention of leading an army northwards to punish the Scots for their insolence. The elaborate preparations made for the campaign and subsequent activities show that Edward had learnt the lesson that Scotland would not be won purely by invasion and occupation: careful, watchful administration would also be required. Thus, preparing for a long stay in the north, he moved the headquarters of his administration to York. The English army duly came north, and, meeting the Scots at Falkirk, inflicted a sound defeat on them on 22 July. Hary and Fordun both place the blame for the defeat on the divisiveness of the Scottish nobles, but in fact it was military strategy that decided the battle. The Scottish army was too small and of the wrong type to withstand the English cavalry and archers on such a field, and Wallace's previously unblemished military career thus became profoundly stained. All that had been won since the spring of 1297 could have been lost by that one defeat, and Wallace's power-base thus vanished. He then

"chose rather to serve with the crowd, than to be set over them, to their ruin, and to the grievous wasting of the people. So, not long after the battle of Falkirk, at the water of Forth, he, of his own accord, resigned the office and charge which he held, of guardian".<sup>55</sup>



Whether Wallace did actually choose to resign, or was forced to, will never be known. If it was his own choice, then it was one which recognised the inevitable outcome of his loss of military prestige. He could no longer be the 'leader of the army', and so had no reason to be the leader of the community.

Fortunately for the Scots, the battle of Falkirk did not have the severe repercussions which might have been expected. The English army was plagued by internal dissension which was aggravated by extreme shortage of food. In addition, Edward I was once again facing difficulties in his relations with the English nobility, and so, after a short period in which he devastated parts of Lothian and Fife, he led his army back over the border. By early September he was in Carlisle<sup>56</sup>, having achieved very little in the way of re-conquering Scotland, which meant that the Scots did not find it necessary to fight a long campaign before re-establishing their own government and appointing new guardians. Only Lothian, parts of Fife, and some of the more southerly castles remained in English hands.<sup>57</sup> The existing administration, which retained control over most of the country, continued to function, and within a few months new guardians had been elected. By 5 December Robert Bruce styled himself "one of the guardians of the kingdom of Scotland", and spoke in the name of "John Comyn the son, our co-guardian".<sup>58</sup> This same letter, a confirmation of Wallace's grant to Alexander Scrymgeour of the constablenesship of Dundee, again implies that Bruce was elected to the guardianship; a phrase referring to the time before he was 'admitted' to the guardianship must be a reference to election.<sup>59</sup> The choice of these two men to govern the realm was probably once

again an attempt to maintain a balance in the government between the main factions. Comyn already had experience of guardianship, and Bruce's attempt to gain that experience in 1297 has already been discussed. Comyn was now free to take his part in Scottish affairs, since the threat of Edward I was more remote than it had been in 1297. Bruce had never really gone over to the English side in 1297, having failed to fulfil the terms of the Irvine agreements. Although his military failure and feigned submission had hitherto prevented Bruce from taking a leading role, now that Wallace was no longer guardian, he was an obvious choice. So, in choosing Bruce and Comyn as guardians, the community once again recognised the practicalities of the situation; these were two experienced men who could bring some continuity to the government, both having previously been involved in it; they represented the two main political interests, and it was thus probably hoped that their election would prevent the type of internal conflict which could ensue were one of those families to be excluded. Both families had claims to the throne, but neither guardian could have any justifiable reason to press a personal claim at that time, and there is evidence that in some documents they added to their style that they governed in the name of King John.<sup>60</sup> The choice of Comyn and Bruce to govern the kingdom was, once again, made out of political expediency, in an attempt to maintain unity in the kingdom so that the common foe might be effectively resisted.

The government of Bruce and Comyn appears to have followed that of Wallace without any significant break. The battle of Falkirk was fought towards the end of July, and Fordun states that it was soon after this that Wallace resigned his office. It is therefore safe to



assume that the resignation took place at a gathering of the community (or at least a representative sample of it) sometime during the month of August. It seems reasonable to believe that Bruce and Comyn were elected at the same gathering, as such a sequence of events would follow the pattern which the community seems to have been trying to establish. Continuity in government, and therefore haste in replacing guardians who left office, were important. Immediately after Alexander III's death guardians were elected; as soon as possible after the 1296 invasion, in May 1297, there was an attempt to establish a guardianship; in the autumn of 1297 there was, admittedly, a gap before the election was made, but at that time there were pressing military matters to be attended to, and the leadership was in any case in no doubt; in 1299, when a dispute between Comyn and Bruce destroyed the cohesion of their guardianship, a new grouping of guardians was established immediately; and in later changes, too, speed seems to have been an important consideration.

Thus Bruce and Comyn were guardians in the name of King John, duly elected by the community, probably before December 1298. The choice of two political opponents jointly to govern the country, however, whilst made in the interests of stability, did not take into account the tension and rivalry which inevitably existed between them. Government does seem to have carried on normally, as under other guardians, and military progress was made against the remaining English occupation forces, but, probably about a year after their election, the rivalry took its toll of the unity with which they could govern. On 19 August 1299 an English spy witnessed an argument at a council held in Peebles, and it is the good fortune of

historians that his report is still to be read in a letter sent by his master, the constable of Roxburgh, to Edward I.<sup>61</sup> The argument, concerning William Wallace's departure from the country, allegedly without the leave of the guardians, broke out between two knights, David Graham and Malcolm Wallace of Elderslie, the ex-guardian's elder brother. The nature of the argument may suggest that Wallace's resignation had not been entirely voluntary, and that he was not on good terms with a section of the community, but the crucial point is that Graham is described as being "of Sir John Comyn's following" and Wallace "of the earl of Carrick's following", implying some polarisation of support within the community; that the argument flared up, apparently because the two men were of different retinues, must indicate considerable tension which, with even minor provocation, erupted into open contention. A brawl ensued, but, fortunately for the stability of the government, bad news was brought at that moment: havoc was being wreaked in the north of the country by supporters of the English king, and so in order to keep a united front with which to combat the threat, the argument was patched up and the guardianship re-arranged. The bishop of St. Andrews, William Lamberton, who had been appointed to that most important of sees under the administration led by Wallace<sup>62</sup>, was given custody of the castles of the country, which was tantamount to giving him sasine of the realm and was clearly meant to bestow upon him seniority in government, and was elected to be a guardian along with Bruce and Comyn. This move must have been intended to reduce the fears of both Bruce and Comyn that the other would attempt to seize total power. The bishop would be a strong balancing force, and, when necessary, an



arbiter between the other two. This arrangement having been made to ensure continuance of some unified opposition to the enemy, the meeting broke up, the protagonists going their separate ways.

This new guardianship grouping had come into being not through the disruption of the previous one by death or foreign interference, but by the inability of the existing guardians to resolve their differences and work together for the common cause. The political conditions which had led to the election of Bruce and Comyn still prevailed, and it would have been counter-productive to remove them at a time when disaffection, particularly on the part of one or both of these men, could greatly have impaired the progress of the national cause. Thus, an impartial but powerful third man had to be found; in Lamberton they found a staunch patriot with considerable administrative experience gained in his previous post as chancellor of the church of Glasgow.<sup>63</sup> He had sound connections on both sides of the Forth, no particular associations with either of the guardians' families, and, moreover, as the incumbent of the most senior of the Scottish bishoprics, his presence in the guardianship not only brought to it the old social balance of one bishop, one earl and one baron, but it also symbolised the backing of the national church for the cause of independence. Once again, the community had chosen its guardians astutely, with penetrating insight into the needs of the moment. What was required in 1299 was as little change as possible, but enough to bring cohesion to the existing government. The election of Lamberton to govern with the others achieved that cohesion, re-introduced social balance into the guardianship, and once again pushed the powerful influence of the Scottish church into

the forefront of the struggle. Perhaps the bishop's election was less haphazard than the English spy's report would have us believe, for it does not have the air of a spur-of-the-moment decision, and had very probably been considered in advance.

For a while, the new guardianship was successful. Under the guidance of the bishop, Bruce and Comyn appear to have been able to govern together, and they took pains to continue the foreign diplomacy surrounding the Anglo-Scottish conflict.<sup>64</sup> They achieved some success in this field, and on 13 November they wrote to Edward from an assembly in the Torwood near Stirling, notifying him that they would accept the truce which had been brought about through the efforts of Philip IV of France.<sup>65</sup> For the moment, success could bind the Scots together; their military efforts were proving fruitful - even Stirling castle fell to them - and this much sought-after truce won them a breathing space in which to consolidate their position. However, in less than a year that temporary reconciliation had come to an end, and with it the unity of the guardianship: by May 1300 Bruce was no longer a guardian. A letter of that month from John Kingston, the English constable of Edinburgh, to Ralph Manton, Edward I's cofferer, tells of a parliament held by the Scots in Rutherglen in which

"the bishop of St. Andrews and sir John Comyn were at discord, and the Steward of Scotland and the earl of Athol took the part of the bishop, and sir John Comyn said that he did not wish to be a guardian of the realm along with the bishop. But at length they were at accord, and they had elected sir Ingram d'Umphraville to be one of the guardians of the realm in place of the earl of Carrick".<sup>66</sup>

Clearly, by this date Bruce had left the guardianship. Indeed, the wording of the letter may suggest that Bruce did in fact resign at



that parliament. It has been stated that a probable reason for the quarrel in May 1300 was the choice of Umphraville to replace Bruce<sup>67</sup>, but it is more likely that the quarrel concerned the position of Bruce himself. If Comyn and Bruce had irreconcilable differences, Comyn may have demanded the resignation of his rival; the bishop may have defended Bruce, and the ensuing argument resulted in the forced resignation of Bruce, and the choice of Umphraville to replace him. This is, of course, pure surmise, but the point is again made that the guardianship depended entirely on the political realities of the day. If it was not possible for Bruce and Comyn to work together, then the make-up of the ruling group had to change. That it appears to have changed in favour of the Comyn faction is probably a reflection of the policies which were being pursued at the time. The military effort in the spring of 1300 was directed mainly against the south-west of the country, and indeed Kingston's letter states that during the parliament itself the earl of Buchan was in Galloway attempting to win the people of that land over to the patriots. This was doubtless done in the knowledge that Edward I had called a muster of his troops at Carlisle in June<sup>68</sup>, in preparation for an invasion which would enter Scotland through Galloway. Even before this, however, the policy had been to win over as much of the south-west as possible<sup>69</sup>, for by 1300 it was one of the few areas which was not under the sway of the guardians. This policy entailed military activity in Bruce's own land of Carrick, and to a greater degree in his father's lands of Annandale. Even if the allegiance of parts of those areas was uncertain, one can certainly understand a reluctance on the part of Bruce to participate in such activity. Furthermore,

the very success of the Scottish enterprise itself put pressure on Bruce: the return of King John was not a goal which he could reconcile with his own family's ambitions. He was willing to govern in the name of a purely nominal King John (to whom, be it noted, he had not rendered homage), but when it began to seem possible that John might actually return and make good his title, Bruce was forced to change direction. The Comyn's policies were thus more in tune with the objectives of the guardianship, and Bruce's opposition to them may have encouraged dissension, and made it seem that Comyn had more to offer the national cause than had Bruce. The guardianship grouping was thus re-aligned with more emphasis on the Comyn side. Once again the election of the new guardians was carried out in response to the needs of the political scenario at that precise moment. Bruce appeared to stand in the way of progress for the national cause, and so had to be replaced.

It certainly seems that Bruce was aware that the cause for which the guardianship fought was not entirely served by, or in sympathy with, his own best interests. By October 1301 it was known that John Balliol had been returned to the kingdom of France<sup>70</sup>, which was regarded as a major step forward by the guardians, who then saw the return of King John to his kingdom as a perfectly feasible possibility. Bruce could not support such a move, and so between October 1301 and February 1302 he temporarily abandoned the cause of the patriots, and submitted to the peace of King Edward.<sup>71</sup> Through its very success, the national cause had become opposed to his own ambitions.



It cannot be stated with any certainty how long the joint guardianship of Comyn, Lamberton and Umphraville lasted. It still existed in December 1300, when Pope Boniface VIII wrote to those three men as guardians<sup>72</sup>, but that is the only documentary reference to their guardianship after the letter of May 1300. Apparently not long after the turn of the year, the guardianship, which had been greatly weakened by internal dissension, fell apart. In the autumn of 1300 they had achieved some success in surviving a powerful invasion by Edward I<sup>73</sup>, and negotiating a truce with him, which he granted at Dumfries on 30 October, lasting until 21 May 1301.<sup>74</sup> Although Edward had re-asserted his hold on the south-west of the country<sup>75</sup>, he had not significantly reduced the area in which the guardians held sway, and the Scots were indeed, in accordance with the terms of the truce, able to "build, fortify, work or cultivate as they will, and go on the land or sea from one country to another as is normal in countries". However, this success did not bind the guardianship together, and by the end of May 1301 the three guardians had apparently resigned, although exactly when, or under what circumstances, we do not know. The first piece of accurately dateable evidence that a change had taken place comes in late May 1301, when John de Soulis, as guardian of the kingdom, wrote to the pope giving authority to those who were to plead Scotland's case against the English at the papal curia.<sup>76</sup> The change is likely to have happened early in the year, although the only piece of evidence for this is highly conjectural: Soulis appeared as guardian in a charter of King John dated at Rutherglen in the ninth year of his reign, that is, between 17x20 November 1300 and 16x19 November

1301.<sup>77</sup> That the place of issue was Rutherglen may indicate that the charter was made in the early part of the year, when military operations were still being concentrated in the south-west. In May 1300, as noted above, a parliament had been held in Rutherglen, which was clearly a centre of activity around that time, and throughout the autumn the activities of Edward's army had kept the emphasis firmly in the south-west. It is thus possible that the document was issued very soon after the earliest date of mid-December, although uncertainty must remain, since there was further military activity in this area in September 1301. At the later date, however, the Scots were facing two English armies, and events may have been rather too frenetic to allow for the granting of mere charters. Such affairs are perhaps more likely to have taken place earlier in the year, in time of truce.

The extent of this change in the guardianship must also be a matter of some doubt. Generally it has been assumed that John de Soulis took over the guardianship in place of all three retiring guardians. Weight is given to this supposition by the several documents of the period May 1301 to June 1302 in which Soulis appears on his own without any reference to other guardians. However, there is evidence that John Comyn of Badenoch did not give up the guardianship in 1301. Fordun states that he remained in office until his submission to Edward I in 1304<sup>78</sup>, and whilst it seems unlikely that Soulis would write to Pope Boniface in 1301 with the consent of the community, but without that of his fellow-guardian, as Fordun would have us believe<sup>79</sup>, it is not inconceivable, and there is other evidence which must be considered. The Scalachronica of Sir Thomas



Gray agrees with Fordun that Comyn remained in office until 1304. Wyntoun (although admittedly perhaps taking his material from Fordun) also states that

"Jhon Cwmyn, that wes Jhon Cwmynys swn,  
Tuk the kepyng of Scotland:  
And that he held in till his hand,  
Qwhill efftyr the battayle of Roslyne  
This ilk yhowngare Jhon Cwmyne  
Come till the Kyng off Inglanis pes".<sup>80</sup>

The Scalachronica further states that when the Scottish leaders submitted to Edward in 1304, only Soulis refused the terms and went into exile.<sup>81</sup> That Soulis, who only appears to have been active on the political scene during his spell of guardianship, is specifically mentioned here as a 'leader' may well imply that in 1304 at least he should be connected with Comyn in a joint guardianship. Finally, a letter from the Scots ambassadors in France (one of whom was John de Soulis) to John Comyn, guardian of the realm, dated May 1303<sup>82</sup>, places Comyn firmly back in the political arena.

It seems possible, therefore, that the guardianship which had dissolved in May 1301 was not entirely replaced by the appointment of John de Soulis. The absence of Comyn's name on the 'Soulis documents', however, must be explained. It should be remembered that it was not unknown for one guardian of a group to issue official documents on his own. Bruce did it, for example, in December 1298<sup>83</sup>, and although he made reference to his co-guardian within the document, one need not necessarily expect this of Soulis in some of his later documents. To five of the seven documents issued by him as guardian, he merely added his name as witness, the documents running not in his name, but in that of King John.<sup>84</sup> Four of these were simple charters, and one was a matter of minor justice. It is

doubtful if documents of this nature would necessarily require the authority of two guardians and the community of the realm. The other two documents, that mentioned by Fordun and a letter to Philip IV of France<sup>85</sup>, are rather different. These are diplomatic documents, issued under Soulis' own name, as guardian, with the authority of the community of the realm. On these one would expect to find the names of both guardians. Fordun obviously felt that the absence of Comyn's name was surprising enough to mention, and one obvious conclusion is that he and other chroniclers were mistaken in saying that Comyn remained in power after May 1301. Another interpretation is possible, however, which, if correct, shows a recognition that the old type of guardianship had failed, and implies a new constitutional set-up.

Fordun states that King John himself was responsible for the appointment of Soulis to the guardianship.<sup>86</sup> If Comyn had resigned with the others, and Balliol had assigned Soulis to the guardianship, then for the first time the leader of the government did not rule by the election of, and with the authority of the community of the realm. Certainly, Balliol's position had improved with his transfer from papal custody to his own estates in Picardy, but it must be doubted whether he had yet gained that situation where his return was sufficiently certain for the community of the realm merely to accept without question his direct nominee as their governor, after years of self-rule and election. It would seem to be true, however, that Soulis was imposed on the Scots rather than having been elected by them. For every other guardianship there is some reference to election, or at least a statement which implies it. For Soulis, the



only clue as to his credentials is the reference to Balliol's appointment. The most satisfactory explanation of this conflicting evidence is that a new type of guardianship was established, on two levels. Soulis was indeed appointed by a hopeful Balliol, as official guardian, his locum tenens in the realm, who had the power to issue documents under the style of King John, as no previous guardian had done. At the same time, the elected representative of the community of the realm, John Comyn, retained his position as at least a sort of adviser-in-chief to Soulis, maintaining the constant official part played in royal government by the community ever since the election of the council of twelve in 1295. The nobles had denied Balliol the right to organise his affairs then; there must have been far greater reason for doing so in 1301, when the king had been absent for the past four years. Perhaps Comyn retained his title, but he was subordinate to Soulis, who in effect had the full executive power of the king. If Soulis had governed alone in this capacity it is hardly likely that he would have joined the Scottish embassy to France in 1303, and it is thus more than likely that Comyn, who was described as guardian during Soulis' absence, was, in virtue of his position as 'under-guardian' elected by the community, standing in whilst Soulis was out of the kingdom. Had Comyn resigned or been ousted in 1301, it must be doubted whether he would have been trusted by Soulis to keep total continuity of policy if suddenly re-appointed in 1303. That Soulis may still have been guardian in November 1303<sup>87</sup>, six months after Comyn is to be found with that style, further supports the idea of a joint guardianship.

So, the chronicle evidence and the appearance of Comyn as guardian in 1303 suggest that Comyn did not resign entirely in 1300/01, and that in the intervening period Scotland was governed by a constitutional novelty, a two-tier guardianship, elected by both king and community. The reasons for the change can only be the subject of conjecture, since the events which led to the downfall of the joint guardianship of Comyn, Lamberton and Umphraville remain in obscurity. If Comyn was the only survivor of that triumvirate, then it perhaps adds weight to the possibility that "young John Comyn was an impossible man to get on with".<sup>88</sup> Certainly, he had quarrelled with Bruce, with Lamberton, and, if some chronicle accounts are to be believed, with Wallace. But an abrasive personality should not have been an insurmountable problem, and one can hazard a guess that beyond the personal level lay some conflict over policy. In May 1301 the truce given by Edward I was due to expire, and it is possible that the policy to be pursued thereafter was a matter of dispute. Perhaps Balliol had made it clear that he wished his own representative, Soulis, to be central in government, and this bone of contention led to the resignation of the bishop and Umphraville.

Given the dearth of evidence it is impossible to draw any conclusions on this matter, but the nature of the change is more readily explicable. From Balliol's point of view, still in exile four years after his ignominious fall from power, those who had governed Scotland in the intervening period had failed; they had failed to secure the freedom of Scotland from foreign intervention, and, more importantly, they had failed to restore the most fundamental symbol of Scottish independence, the monarchy. To



Balliol, his own return to the kingdom would be the most important step in re-asserting Scotland's rightful status. Thus, from his more promising position on his own ancestral estates, rather than in custody elsewhere, seeing the improved situation in Scotland, where aid from the papacy and France was supporting the Scots in their war of diplomacy and propaganda, he appointed his own agent to take charge of the government, to ensure that policies were pursued which promoted his own personal advancement to the kingdom. His choice of Soulis was probably prompted by that man's age and experience, his secure noble family background, and the fact that, although constant in the patriotic cause, he had not been directly involved in any of the previous guardianship groupings, and could therefore retain a neutral stance, which was vital for stable government in an atmosphere where factional tensions were probably causing increasing difficulty. Soulis may indeed have been involved with pushing Balliol's personal cause from as early as February 1299, at which point he was in Paris<sup>89</sup>, and may have been connected with Philip IV's letter to the Scots guardians of April 1299<sup>90</sup>, which lays some stress on John's royal status.

To some extent Balliol's feelings may have been shared by those in Scotland. It is interesting in this context that early in 1301 an official transcript was made of an undertaking made by John, before his deposition, regarding the payment of outstanding dowry to Marguerite of Flanders<sup>91</sup> (Prince Alexander's widow). This implies that he was then regarded with some seriousness as one whose promises with regard to the revenues of Scotland were of value. It may be that there was, if only briefly, some genuine expectation of his

eventual return. By 1301, however, the Scots' style of 'guardians in the name of the illustrious King John' had a slightly empty ring to it, and they too may well have felt that the present system had failed; a new approach to the problem would perhaps have been welcomed. However, the community had been self-reliant for too long suddenly to give up the reins of government entirely to a man whom they had not elected, over whom they would have no direct power. Thus they insisted that their own representative must also remain in government. Perhaps the triple guardianship was intended to remain with Soulis, but was prevented from doing so by the mysterious events which led to the resignation of Lamberton and Umphraville. Perhaps it was an equable decision, that the present government should be dissolved in favour of a new system whereby one representative of the community would be elected to govern with Soulis. It is not impossible that Lamberton and Umphraville resigned for diplomatic reasons. Both of them went to France on the strong Scottish embassy of 1302, and it is far from inconceivable that the decision to remove them from the guardianship was made in order to make them more readily available for such a mission. Certainly, their inclusion in that embassy makes any major disagreement between them and Comyn or Soulis unlikely. Comyn, whose family was in the ascendant at the time, and who had much administrative experience, was the ideal choice as the nominee of the community. Whether by accident or design, the upshot was that by May 1301 Soulis was the guardian, appointed by the king, with Comyn his second-in-command, appointed by the community. He stood in as guardian in 1303 when Soulis left the country. In the diplomatic letters of Soulis the inclusion of the



community in the style and the description of the seal used as "the seal of the rule of the kingdom of Scotland deputed by the community"<sup>92</sup>, show Comyn's position: he was the representative of the community at the top level of King John's government.

It must be stressed that this (or, indeed, any other) description of the constitutional set-up in 1301 - 1303 is conjectural. It does, however, fit the evidence, and, unlike the more common suggestion that Comyn resigned along with Lamberton and Umphraville, marries the accounts given by Fordun, Gray and Wyntoun with the scanty documentary evidence. It also fits in with the earlier patterns of change. Always, when the political situation demanded, the guardianship changed to suit the new position. On this occasion the change was more radical than previously, prompted by an increasing awareness of the difficulties of maintaining unity within the traditional joint, elective guardianship, the fact that the time was near when an intensive effort to restore the monarchy and independence would have to be made if those aims were ever to be realised, and by an awareness on the part of King John that any delay or apathy on the part of the Scots could ruin his chances of regaining the kingdom. Once again, the new guardianship was established in direct response to the political situation.

That was the last major change in the guardianship. Soulis apparently remained in power over the diplomatically and militarily hectic years of 1301 and 1302.<sup>93</sup> At some point between August and November 1302 Comyn was again placed in the driving seat when Soulis joined the embassy which went to France to attempt to avert the settlement of the Anglo-French dispute without Scottish inclusion.<sup>94</sup>

Comyn remained in control until the Scottish submission of 1304, Soulis perhaps not returning from France with the others in February of that year, although a safe-conduct was issued for him along with nine others at that time.<sup>95</sup> However, his exile did not make necessary any further constitutional change, since Comyn held the position in virtue of his previous election by the community and his more recent attachment to Soulis in the guardianship.

Through the vagaries of the international political scene, the brighter position which the Scots had enjoyed in early 1301 rapidly deteriorated into one of utter hopelessness. By 1304 their allies in the papacy and the French court had let them down, and King John himself appears to have lost the will to struggle on.<sup>96</sup> In addition, after some military success for the Scots early in 1303<sup>97</sup>, Edward I mounted a full-scale invasion in the summer of that year<sup>98</sup>, which the Scots were unable to resist effectively. Fighting continued until well into 1304, but many castles had fallen to the English by the turn of the year, and that he was able to winter on the north side of the Forth, at Dunfermline, must be significant. Comyn pursued negotiations with Edward I in the early months of 1304<sup>99</sup>, and eventually a formula was agreed upon which allowed the Scots to submit on as favourable terms as they could have expected.<sup>100</sup> Apparently only Soulis (who seems to have remained in France) and Wallace refused to come to terms.<sup>101</sup> Once again Scotland was placed under English rule. In 1305 an elaborate attempt was made by Edward I to find an acceptable administration for Scotland, through which he could keep his undertaking to uphold the Scots



"in all their laws, usages, customs and liberties in all ways, just as they were in the time of King Alexander, unless there are laws which have to be amended, which will be done with the counsel of the king and the assent and counsel of the bons gents of the land".<sup>102</sup>

It was this government which was just swinging into motion when it was disrupted by Bruce's rebellion of 1306. The submission of 1304 marked the end of the period when Scotland was governed by her community through their elected representatives, the guardians.

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NOTES

- 1) An abbreviated version of this chapter, with material from the two following, has been published as 'The Kingless Kingdom: the Scottish Guardianships of 1286-1306' in S.H.R. 61 (1982), pp.105-29.
- 2) Chron. Pluscarden I, pp.178-79 (II, p.141).
- 3) Stones, Documents, p.[54].
- 4) Ibid., p.[66].
- 5) i.e. John Comyn, the son of the competitor, not to be confused either with his father or his namesake the earl of Buchan. (See table facing p.112.)
- 6) A.P.S. I, p.454.
- 7) Chron. Fordun I, p.319 (II, p.313).
- 8) Chron. Lanercost, p.117 (trans. Maxwell, p.43).
- 9) Chron. Bower II, p.138. See above, pp.55-58.
- 10) Chron. Fordun I, p.310 (II, p.305).
- 11) See above, p.66 (n.42).
- 12) Stones and Simpson, Edward I II, pp.90-93.
- 13) Ibid.
- 14) Stevenson, Documents I, pp.278-79.
- 15) Chron. Guisborough, p.281.
- 16) Ibid.
- 17) See E.M. Barron, The Scottish War of Independence, pp.18-20.
- 18) Rot. Scot. I, p.40.
- 19) Barron, op.cit. has a good, if overstated, account of the beginnings of the rising of 1297.
- 20) E.g. Chron. Meaux II, p.268.



- 21) Chron. Fordun I, p.328 (II, p.321).
- 22) Chron. Lanercost, p.190 (trans. Maxwell, p.163).
- 23) Chron. Meaux II, p.268.
- 24) See Stevenson, Documents II, pp.197-220 passim; Palgrave, Docs. Hist. Scot., pp.197-200.
- 25) Stevenson, Documents II, pp.204-205. See also Ibid., pp.225-27.
- 26) Ibid. II, pp.198-200.
- 27) See below, pp.218 - 223.
- 28) There is a thorough discussion of the rising and its leaders in Barrow, Robert Bruce, pp.117-23.
- 29) Cal. Docs. Scot. II, no.922; Stevenson, Documents II, pp.211-12; see also Barron, op.cit., pp.32-67.
- 30) Stevenson, Documents II, p.217.
- 31) Rot. Scot. I, p.42.
- 32) Chron. Guisborough, p.296.
- 33) Formulary E, no.89.
- 34) Stevenson, Documents II, p.175.
- 35) Ibid. See also Cal. Docs. Scot. II, nos.888, 889.
- 36) Stevenson, Documents II, p.211; Rot. Scot. I, p.41; Chron. Guisborough, p.297.
- 37) Stevenson, Documents II, pp.226-27.
- 38) Dowden, Bishops, p.21.
- 39) Stevenson, Documents II, pp.192-94.
- 40) They had both been auditors for Bruce in the Great Cause (Stones and Simpson, Edward I II, pp.80-85).
- 41) See above, n.9.
- 42) Chron. Fordun I, p.329 (II, p.322). Cal. Close Rolls Edward I, 1296-1302, p.63 shows Edward I to have been apparently unaware of the seriousness of the uprising. Dated 7 September, it is a calm and assured order to Warrene to stay in Scotland until the disturbance had been settled. By 24 September

he was rather more concerned about the 'rumours' he had heard concerning the state of Scotland (Ibid., p.132). There is a detailed description of the battle in Chron. Guisborough, pp.298-303.

- 43) The possession of castles appears to have been of at least symbolic importance for the possession of the realm. Cf. Edward I's demand for the sasine of the kingdom and its castles at the start of the Great Cause (Stones and Simpson, Edward I II, pp.73-75).
- 44) The only document which styles Wallace 'guardian' comes from a council held at Torphichen on 29 March 1298 (A.P.S. I, pp.453-54).
- 45) Stones, Documents, pp.[77-78].
- 46) Stevenson, Wallace Docs., p.159.
- 47) See, e.g. the attack on Roxburgh (Cal. Docs. Scot. II, no.958.) See also Chron. Guisborough, pp.313-15, for an English counter-attack in early 1298.
- 48) Cal. Close Rolls Edward I, 1296-1302, p.77; Cal. Docs. Scot. II, nos.954, 956, 978; Chron. Fordun I, p.329 (II, pp.322-23); Chron. Guisborough, pp.303-307.
- 49) Chron. Fordun I, p.329 (II, p.322).
- 50) See, e.g. Ibid., pp.328, 330 (II, pp.321-23); Chron. Langtoft II, pp.298-99.
- 51) Hary's Wallace. See especially Bk.VIII, ll.19-22.
- 52) See above, n.44. For this council's status as a parliament, see below, pp.264-65.
- 53) This evidence is discussed more fully in Barrow, Robert Bruce, pp.137-39, and in Barron, op.cit., pp.82-84.
- 54) Chron. Guisborough, p.299.
- 55) Chron. Fordun I, p.331 (II, p.324).
- 56) Cal. Docs. Scot. II, no.1023.
- 57) The English had Jedburgh castle under siege in October (Cal. Close Rolls Edward I, 1296-1302, p.357).



- 58) Highland Papers II, p.131.
- 59) antequam custodiam dicti rengni (sic) admissimus  
The use of admitto in the active voice suggests the meaning 'receive', but it nevertheless implies reception of the guardianship from some person or body.
- 60) Cal. Docs. Scot. II, p.535 (misdated, recte 6 April 1299). The phrase nomine incliti principis Johannis Regis illustris may be an addition made by Philip IV, who at this time was using Balliol as a weapon against Edward I, but this is unlikely. It was customary to copy the address from the style used by the addressees. This style is closely comparable with that adopted by later groups of guardians.
- 61) Nat. Mss. Scot. II, no.8.
- 62) Watt, Fasti, p.293.
- 63) Ibid., p.160.
- 64) See below, pp.239-40.
- 65) A.P.S. I, p.454.
- 66) P.R.O. Ancient Correspondence, Vol.30, no.114. This letter is discussed (and printed) in G.O. Sayles, 'The Guardians of Scotland and a Parliament at Rutherglen in 1300' in S.H.R. 24 (1927), pp.245-50.
- 67) Ibid., at pp.249-50.
- 68) Cal. Close Rolls Edward I, 1296-1302, pp.333-35. As early as 1 March 1300 a 'horde' of Scots was waiting for John de St. John's entry into Galloway.
- 69) See, e.g., Scalachronica (Maxwell), p.23: "great passage of arms between the marches". Gray's chronology is confused at this point, but the comment seems to fit this period.
- 70) Previously, he had been at Gevrey, within the boundaries of France, but on land directly subject to the papacy.
- 71) The evidence for the dating of, and reasons for, Bruce's change of allegiance, is convincingly discussed in E.L.G. Stones 'The Submission of Robert Bruce to Edward ' in S.H.R. 34 (1955), pp.122-34.

- 72) Cal. Papal Letters I, p.590; Vet. Mon., p.169 (and see Sayles in S.H.R. 24, op.cit., for discussion).
- 73) See place-dates in Cal. Close Rolls Edward I, 1296-1302, p.361 et seq.
- 74) Foedera I, p.924. This truce was also arranged at the instance of Philip IV.
- 75) See, e.g. Cal. Close Rolls Edward I, 1296-1302, p.421.
- 76) Chron. Fordun I, p.332 (II, p.325). Date in May from Chron. Pluscarden I, p.205.
- 77) This charter is now lost, but is mentioned in W. Scott, The Minstrelsy of the Scottish Border III, pp.253-54. See also Appendix 2.
- 78) Chron. Fordun I, p.331 (II, p.324).
- 79) Ibid., p.332 (II, p.325).
- 80) Chron. Wyntoun (Laing) II, p.349.
- 81) Scalachronica (Maxwell), pp.24-25.
- 82) A.P.S. I, p.454.
- 83) Highland Papers II, p.131.
- 84) W. Scott, op.cit., loc. cit.; Standard-Bearer Case, pp.408-09; Kelso Liber II, p.310; Coupar Angus Rental I, pp.345-46.
- 85) A.P.S. I, p.454: Johannes de Soulys custos regni Scotie nec non prelati comites barones totaque ipsius regni communitas...
- 86) Chron. Fordun I, p.321 (II, p.324).
- 87) Cal. Docs. Scot. IV, no.1827, and see S.H.R. 61, op.cit., pp.113-14, n.3.
- 88) Barrow, Robert Bruce, p.161.
- 89) D.L. Galbraith, 'Scottish seals from the Continent' in S.H.R. 27 (1948), pp.127-141, at p.139.
- 90) Cal. Docs. Scot. II, no.1301 (misdated).



- 91) N.L.S. Chr. 4793. I am grateful to Professor G.W.S. Barrow for this reference, and for his helpful comments regarding it. Although the transcript was made in Tours, such an attitude to Balliol in France probably reflects a similar feeling in Scotland.
- 92) A.P.S. I, p.454: sigillum regimini regni Scotie deputatum vice communitatis.
- 93) Edward I mounted a further campaign in the summer and autumn of 1301, wintered at Linlithgow, and by February 1302 was talking confidently about "the final conclusion of the war in Scotland", with a campaign planned for 1303 (Cal. Close Rolls Edward I, 1296-1302, pp.456-73 passim, 576, 611).
- 94) The date comes from Foedera I, pp.942-43, which is a safe-conduct of Edward I for six Scots, to be named by the French ambassadors, passing through England. It was valid from 15 August to 18 November, but since another safe-conduct, for the French embassy going to, and returning from, Scotland, was issued on the same day (15 August), it is safe to assume that the Scots did not reach France before late September or early October. The Scots embassy was more than six strong (A.P.S. I, p.454, Cal. Docs. Scot. II, no.1455). It is possible that some Scottish representatives were already in Paris at this time. (See Barrow, Robert Bruce, p.177, n.2). Perhaps the less influential ambassadors were sent in advance, before the Bishop of Dunkeld and others. (See below, pp.243-44).
- 95) Cal. Docs. Scot. II, no.1455.
- 96) In November 1302 Balliol wrote to Philip IV, agreeing to his negotiation with the English in any way whatsoever. This was a carte blanche for the French to make peace with Edward I with or without Scottish inclusion: Balliol, clearly, had given up the struggle.
- 97) See, e.g., the references to Scottish success in Cal. Close Rolls Edward I, 1302-1307, pp.71, 91 (January and June, 1303).
- 98) See place-dates in Ibid., pp.32-64, 112-169.
- 99) Memoranda of these negotiations are printed in Palgrave, Docs. Hist. Scot., p.287.

- 100) The actual terms of submission are calendared in Cal. Docs. Scot. II, no.1741, and printed in full in Rot. Parl. I, pp.212-13. A later, modified, version is in Foedera I, pp.974-75.
- 101) Soulis: see Barrow, Robert Bruce, p.182 n.5; Scalachronica (Maxwell), p.25; Soulis had family estates in Normanville in France, to which he probably retired in 1304. (I am grateful to Dr. G. Stell for this information).  
Wallace: see his indictment in Stevenson, Wallace Docs., pp.191-93.
- 102) Palgrave, Docs. Hist. Scot., p.287.

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CHAPTER FIVETHE GUARDIANSHIPS OF 1286 - 13062: THE ADMINISTRATIONS

To ascertain the true position of guardians in the political and social framework of the country it must be established how they saw the scope of their duties. Did they run the administration of the kingdom in all respects, or did they simply keep the wheels of government turning, seeing their main function as no more than merely to carry out the military and diplomatic measures needed to re-establish the status quo?

The documentary evidence which survives from the earlier guardianships, at least, tends to indicate that the former option is correct. The records of the first guardianship give every indication that the government continued to function on all levels, with the added weight of diplomacy made necessary by the attempts to establish a reigning monarch in the kingdom. Internal affairs such as finance, justice, normal feudal wards, reliefs, fees, grants of land and so on, commerce, the settlement of political unrest, the state of the common people, and church affairs, show little to be distinguished from Alexander III's reign itself. The attitude of Edward I to the guardians seems to have been similar to his regard for Alexander: there is frequent intercourse between them in the normal affairs of their kingdoms, such as border justice and trading disputes. The only noticeable difference is that in the years of guardianship a sudden outburst of diplomacy is to be seen, caused by the

negotiations aimed at restoring Scotland's normal state of government, and at safeguarding the independence and sovereignty of the nation. Apart from this increase in diplomacy, the government of the country appears to have functioned in a very normal and remarkably efficient manner.

There is every indication that the offices of government were as fully provided for under the guardianship of 1286 - 1291 as under Alexander III's personal rule. Of course, when the guardians assumed power in 1286 they were fortunate not to succeed to the government after a period of disruption, and they thus inherited a complete and functioning royal administration. Alexander's rule had apparently been efficient and well-respected, and so the guardians' task of continuing that trend should not have been too arduous. That the administrative system continued to function normally, even after the death of Queen Margaret, implies that the aim of the guardians was to sustain the entire government of the kingdom throughout the period in which they were 'caretaking' for a monarch. On the local level, the sheriff appears in the records of the first guardianship to have been as active as at any other time. In the extant exchequer records for 1286 - 1290 accounts exist from sheriffs of Aberdeen, Auchterarder, Ayr, Banff, Berwick, Dumbarton, Dumfries, Edinburgh, Fife, Forfar, Jedburgh, Kincardine, Kinross, Lanark, Linlithgow, Perth, Roxburgh, Selkirk, Stirling, Traquair and Wigtown.<sup>1</sup> From another source we can add to that list the sheriffdoms of Cromarty, Dingwall, Dundee, Elgin, Forres, Inverness, Kirkcudbright and Nairn<sup>2</sup>, leaving only one known sheriffdom unaccounted for, that of Clackmannan, which may for a time have been united with that of Stirling. Clearly, under the



guardians, the system of sheriffdoms was complete. There is also one reference from this period to the guardians making an appointment to a vacant sheriffdom: William de Soulis stated in June 1291 that he could not render up his castle of Inverness to Edward I, as it had been bestowed upon him not by Edward, but by the guardians of Scotland.<sup>3</sup> Most of the sheriffs had been inherited by the guardians in 1286, but where this was not the case, or where a sheriffdom fell vacant, the guardians were obviously prepared to attend to the upkeep of this part of the administrative system.

The other main non-centralised office of government, that of justiciar, is clearly in evidence under the rule of the first guardianship. William St. Clair rendered accounts for the year 1287 in his capacity as justiciar of Galloway.<sup>4</sup> The other justiciarships are less easy to detail in this period, but in 1285 William de Soulis was justiciar of Lothian, and there is evidence that he retained the post until his death in 1292/93.<sup>5</sup> Sir Andrew Moray of Petty may have been appointed to the justiciarship of Scotia in 1289, on the death of Alexander Comyn, earl of Buchan.<sup>6</sup> The guardians thus inherited three justiciars from Alexander III, and when one died it seems that they took care to replace him.

The other offices attached to the government were principally those attached to the royal household, for the incumbents of which there is ample evidence. The chancellor was Thomas of Charteris<sup>7</sup>, who had been given the post near the end of Alexander III's reign, and remained in office until Edward I's re-organisation of Scottish affairs in June 1291. He was a typical incumbent: a churchman of rank, who had been archdeacon of Lothian in the 1260s, and who was

involved in government and diplomacy in the 1270s and 1280s.<sup>8</sup> His staff included the 'clerk of the rolls of the royal chapel',<sup>9</sup> or clerk register, who looked after the records of chancery, a post which was held by William of Dumfries<sup>10</sup> during the reign of Margaret and the interregnum, until his appointment as chancellor.<sup>11</sup> The chamberlain was Alexander Balliol, a kinsman of the unfortunate King John, who held the office throughout the guardianship and until the end of John's reign. It is fair to assume that his appointment was made by the guardians, since in the accounts rendered for the years 1288 - 1290 he is described as "Alexander Balliol, now chamberlain"<sup>12</sup>, implying that the appointment was recent. Working for him were the auditors of the exchequer, the head of whom at one point was Thomas of Charteris, the chancellor.<sup>13</sup> Even purely household offices, such as the Steward and the Butler, were filled during the guardianship, but since these had long been hereditary posts, it is hardly surprising that they continued in interregnum. The Steward was one of the guardians, and the Butler was William de Soulis, the justiciar of Lothian.

So, those men who were normally responsible for administering the king's government were in office during the first guardianship. Moreover, the records show that they carried out their duties with a degree of efficiency which, in view of the difficulty of the political situation, must be admired. Commercial, judicial, financial, diplomatic and military affairs all appear to have proceeded with an efficiency equal to that of any Scottish royal government of the period.



The basic purpose of government, whether by king or guardians, was the protection of the governed from injustice, whether local crime, rebellion on a large scale, oppression by superiors or foreign invaders, or material hardship. The matter of major foreign relations, involving diplomacy, will be discussed below. As for maintenance of internal peace and stability, this was a duty with which the guardians were clearly fully concerned. William St. Clair, in his capacity as justiciar of Galloway, rendered accounts to the exchequer of "funds acquired in his bailiary"<sup>14</sup>: the administration of justice gave rise to some profit. As sheriff of Edinburgh, the same man claimed expenses of 2s. as the cost of sending two malefactors from Haddington to Edinburgh and feeding them during their incarceration<sup>15</sup>: the administration of justice also drained resources. Mention is also made of goods escheat to the crown by "felons of the king": because of their felonies "their goods pertain to the king".<sup>16</sup> William Perel, sheriff of Traquair, included expenses concerned with "a gardener who took flight for the killing of his wife".<sup>17</sup> One Thomas of Ravenser wrote on 28 July 1290 that he was forced to sell his land in Berwick in order to pay his debts, necessary because "he had been judically compelled by the bailies of our lord the king".<sup>18</sup> In the late 1280s there was an acrimonious dispute between the burghs of Montrose and Aberdeen over the alleged disruption of the fair of the latter town by the burgesses of Montrose, which caused "no little prejudice and injury to the foresaid burgh of Aberdeen"; in May 1287 the guardians took notice of this dispute, ordering the abbots of Scone and Coupar-Angus and three burgesses of Perth to hold an enquiry into the affair on their

behalf, and to report the findings.<sup>19</sup> Apparently, in this instance, the judicial process was not sufficiently effective, since two and a half years later, in February 1290, the burgesses of Aberdeen were still complaining of the interference.<sup>20</sup> From these few examples it can be seen that the guardians were concerned with matters of dispute in the realm, but, like any other medieval government, they were not always able fully to ensure obedience to their edict.

The attempt to enforce law and order involved more than just the type of relatively minor judicial matters outlined above. In 1286 and again in 1290 there was serious risk of civil war, and the realm suffered from a considerable amount of military disturbance. The concern of the guardians with these events is reflected strongly in the records. Their effects were still being felt two or three years later, when in the exchequer accounts references are found to land from which no money could be raised because of their devastation in time of war. More than one piece of land "lay uncultivated on account of the war moved after the death of the king".<sup>21</sup> In attempting to hold the peace of the country, the guardians appear to have declared a sort of medieval 'red-alert'. Dumfries castle was subject to an expensive "major custody... on account of the war".<sup>22</sup> Other important castles were subject to the same maior custodia, as witnessed by accounts for Ayr, Jedburgh, and Edinburgh, where two extra watches were mounted "on account of the peril of war".<sup>23</sup> The guardians seem to have been kept well informed of the course of events, since the accounts for Jedburgh include an entry for "messengers sent to divers parts in time of war, for the wellbeing of the kingdom"<sup>24</sup>, and the sheriff of Lanark claimed expenses of 40



merks spent by the advice of William de Soulis, the justiciar, "for the defence of the country (patrie) after the death of the king".<sup>25</sup> Further, the guardians themselves apparently took positive military action in calling up the host, a step normally taken by the king only in times of emergency. The summons of the host which probably dates from this period demands that all service due to the 'kingly dignity' should be provided "for the tuition, conservation and defence of the realm and the kingly dignity and the freedom thereof".<sup>26</sup> Further suggestion that the host was indeed called in 1286 is found in letters of Malise, earl of Strathearn and James the Steward to the abbeys of Inchaffray<sup>27</sup> and Melrose<sup>28</sup> respectively, in which the two men confirm that the aid given to them by those abbeys "for the sustentation of the peace and tranquillity of the kingdom of Scotland after the death of the lord Alexander, king of Scots" was voluntary, and set no precedent for future demands. The Steward's letter is particularly specific; by the death of King Alexander the peace of the land had been disturbed and public dissension had been made imminent, on account of which the abbot and convent of Melrose had acceded to the Steward's request for arms, hosting and aid, for the defence of the peace and land of the kingdom and its people. Had a rebellion taken place prior to 1286, Alexander III would have called out the host, and the magnates of the realm, such men as the earl of Strathearn and the Steward, would have raised the men of their lands to come to the host as their retinues. Clearly, the guardians approached the rebellion of 1286 in the traditional way, acting with full royal authority. Similar precautions were probably taken in 1290, when, we are told, armies were gathered after rumours spread

that Margaret had died.<sup>29</sup> It may well be that an attempt by the guardians to quell a rising in the north is what is referred to as the guardians' allies destroying the land of Moray, in the 'Appeal of the Seven Earls of Scotland'.<sup>30</sup> Perhaps this was one occasion on which the policy adopted by the guardians was not endorsed by the entire community: Bruce, at least, seems to have thought that an attempt was being made unjustly to put Balliol on the throne, despite the guardians' promise "to preserve and defend the established laws and customs of the realm, and to render to each person the right which should belong to him by law". Bruce's formal statement of disgruntlement, however, is in itself a clear indication of how the guardians were expected to act with regard to matters of law and 'right'.

The normality of their government is also demonstrated by the guardians' relationship with Edward I, which was very similar to that between Edward and Alexander III, particularly with regard to such matters as border justice. On 15 September 1286 Edward I wrote from Gascony to his lieutenant in England, the earl of Cornwall, ordering him to stay legal proceedings on a boundary dispute between the prior of Kirkham and a Scotsman named Ralph of Haudene, at the request of the guardians, until Edward I himself returned to England.<sup>31</sup> Settlement of this dispute had been impeded by the death of Alexander III<sup>32</sup>, but, after a short delay during which the kingdom's affairs were brought to some order, the guardians had turned their attention to such concerns as this. In November of the same year the guardians wrote to the earl of Cornwall demanding that amends be made regarding the unjust treatment of a Scots knight and his wife by the English



king's escheator north of the Trent.<sup>33</sup> There was also full communication between Edward and the Scottish administration over the settlement of Alexander III's will, where its effects crossed the national boundaries.<sup>34</sup> Another case brought to Edward's attention by the guardians concerned the hindrance of John Wyscarde in presenting to the church of Knarsdale: approximately six weeks after their complaint, on 2 July 1288, Edward issued a letter complying with their request.<sup>35</sup> Apparently the bishop of St. Andrews and some companions also had reason to seek Edward's justice when, early in 1289, they were arrested in Doncaster whilst on their way, under his protection, to meet Edward I himself: letters of complaint, sealed with the 'seal of Scotland', were dispatched to Edward, who duly ordered an enquiry and appropriate remedy.<sup>36</sup> Edward I, of course, also had occasion to raise issues with the guardians: he complained, for instance, about the extraordinary behaviour of William Douglas, who allegedly abducted an English widow, Eleanor de Ferrars, and took her to Scotland "in prejudice and contempt of us, and in manifest lesion of our crown and dignity".<sup>37</sup> When several "men of Scotland" found the sheriff of Northumberland contravening the "customs of the marches" by acting within Scotland on English judicial business, they made their complaints known to the guardians, who ordered the sheriff's arrest, so that he could answer the charges in their court at Edinburgh. The arrest was duly effected, about which the sheriff, one Richard Knout, bitterly complained to Edward I, who ordered that amends should be made.<sup>38</sup> Norman Bast, an English merchant, had his fleeces confiscated and was unjustly imprisoned in Aberdeen; on this occasion Edward I acted high-handedly, and, disregarding the

guardians, wrote directly to the burgesses ordering them to explain why they had not done justice.<sup>39</sup>

The government in power from 1286 - 1291 seems to have been active in other legal aspects of the social and governmental system besides justice. The feudal system of society prevalent in Scotland was based on land, held by tenants of superiors who were, ultimately, tenants-in-chief of the crown. Thus, much of the daily business of government was concerned with the land and tenantry, and with the associated services and dues. Gifts and pensions granted for specific services, wardships, rents and the giving of charters all required governmental attention in both administrative and financial terms. To enumerate all the documentary references to such run-of-the-mill administrative business would be tedious and unnecessary, but a few examples serve to show the government at work in maintaining the normal administrative machinery. The financial records once more prove to be a mine of information. There are references in the sheriffs' accounts, for example, to wardships given by the guardians: "Thomas of Charteris, now chancellor, responded for the ward of Amisfield, which ward he had from the guardians of the realm, by their letters patent".<sup>40</sup> The income of the government came from the rents and duties recorded in the accounts: the sheriffs collected the 'king's dues', and, subtracting their expenses from the total, sent the balance to the exchequer. The records show, of course, that much was paid in kind. There are profits from burgh fermes, and references to services and renders such as "grassum", "cain", "carriage", "garrison" and "wayting". The necessity of reducing the rents to be paid from land damaged by war, or land that



had fallen uncultivated, can be seen to have been recognised. Allowance was made for animals which had been killed, and for repairs to buildings.<sup>41</sup> That the government tried to keep in touch with the requirements of the people of the land, and recognised the importance of keeping the land productive, is witnessed in particular by one entry which says that remission of dues was given

"to the fermers of the king's land of Liberton and Lauriston, whose animals, to the value of £10, died... lest they should leave the king's land in poverty".<sup>42</sup>

Gifts and payments appear to have been given as frequently by the guardians as by a king: in particular, gifts were made to the church, and, closely following the casual nature of royal gifts, one Thomas Modersun, a packman, was paid one chalder of oatmeal for his year's work.<sup>43</sup> Craftsmen and other workmen who carried out repairs were paid wages, and there are various references to payments made to royal servants, such as the clerks of the rolls. Overall, the Exchequer Rolls provide an impressive testimony to the normality of life and government in these politically difficult years.

Closely related to the value of the land, and land-holding, was the system of inheritance and the traditional practice in Scotland of holding inquisitions regarding the rectitude of an heir's claim to inherit, or to settle any queries about boundaries, pertinents, or rights of tenancy. This system continued under the guardianship. As early as September 1286 the guardians had sufficient hold of the reins of government to be able to give attention to such affairs, for on 25 September they ordered the abbot of Arbroath, Robert Cameron of Baledgarno, sir David Beaton and master Ralph of Dundee, or two of them, to conduct an enquiry into pasture pertaining to lands in

Angus, and into the rights of the tenant of the land, one Christian de Maul, to hold it. The enquiry was duly held on 14 October 1286 by the abbot and Beaton, who accordingly reported back to the guardians.<sup>44</sup> The dispute mentioned above between the burghs of Aberdeen and Montrose also led to an enquiry being ordered by the guardians, and on 10 July 1289 another inquest was ordered with the aim of establishing whether William Heswelle was the true heir of his father, the late William Heswelle, and whether the latter had rightfully held the lands of Edilshede at the time of his death.<sup>45</sup> It may also have been in connection with some matter of inheritance or justice that the guardians required the presence of one Ela of Garioch, the widow of the late Andrew of Garioch, at Stirling in May 1289.<sup>46</sup>

One very plentiful type of document from this period is that which deals with the payment of knights' annual fees. In collections such as Stevenson's Documents Illustrative of the History of Scotland, many orders for the payment of fees and receipts for their payment are to be found. In one collection in the Scottish Record Office<sup>47</sup> there are thirty such warrants dating from the period December 1287 to May 1291. Of these thirty warrants, eighteen have corresponding receipts, showing that payment was in fact made. There are, furthermore, four receipts for which the warrants for payment have not survived. This shows a fair degree of efficiency on the part of the financial staff of the government. That these warrants were issued regularly, and apparently promptly followed up with payment, indicates that the government was well in control of the day-to-day affairs of the administration.



The financial side of government also involved trade and commerce. Much of the country's economic stability depended on successful and profitable commerce, and one would thus expect to find some measures taken to promote trading, both internal and international. The records are less forthcoming for this part of the study, but nevertheless some clues may be found. The Exchequer Rolls give the impression of a subsistence economy, but there are also references to goods being sent, for example, from the town of Haddington to be sold<sup>48</sup>, and to the sale of cattle, pigs, fowl, cheese, malt, barley, flour and "fodder".<sup>49</sup> Mention of goods such as peppers and wine (and, specifically, white wine)<sup>50</sup>, shows that foreign goods, too, were being imported: shipping passed regularly between Scotland's eastern ports and northern Europe, trading Scotland's raw materials and animal produce for manufactured goods and finer foodstuffs. A dispute such as that between Aberdeen and Montrose, over the holding of a market, is of obvious relevance to trade; that the case came to court, and was so vehemently pursued over such a considerable length of time, tends to indicate that there was a fair amount at stake, presumably as regards both the profits made by individual burgesses and merchants on such occasions, and the customs dues which the town would gather from the passage of large quantities of goods. Other disputes give the impression that a considerable amount of trade was engaged in. The plight of Norman Bast, who had his merchandise seized while trading in Aberdeen, is evidence for the activity of English merchants in Scotland, and that the Scots also went south with their own goods is borne out by similar complaints and by safe-conducts. For example, a burgess of

Perth named Walter Deacon was given a safe-conduct to trade in the ports of England as long as he paid the relevant customs on his goods and did no business with Flemish merchants.<sup>51</sup> Immediately before the start of the Great Cause Edward I gave a burgess of Berwick a safe-conduct to go with his goods and merchandise to various parts of England "to carry out business" (causa negotiationis faciendae).<sup>52</sup> The Gascon John Mazun, despite his oft-repeated complaint about his treatment in Scotland regarding his attempts to recover unpaid debts of Alexander III, nevertheless appears to have continued to trade in the realm, for he was given a safe-conduct for that purpose in May 1286.<sup>53</sup> In May 1290 King Edward gave privileges to Ralph Tendman and William of Duddingston, burgesses of Perth and Edinburgh respectively, that they would not be distrained for any debts in England for which they were not principals over a period of five years, indicating that they traded in England with some regularity.<sup>54</sup> Thus, while there is no direct evidence of positive encouragement of trade by the guardians, it is nevertheless clear that Scotland played its part in the network of world trade, and the attention given to such disputes as the Aberdeen-Montrose controversy shows that the guardians were not unaware of the necessity to establish and maintain favourable trading conditions.<sup>55</sup>

The routine side of the country's government took a large proportion of the guardians' attention. The part of their duties, however, which tends to receive most airing is in the field of major international relations. Scotland under the first guardianship took a greater part in such affairs than had been the case for many years previously, for there were several issues concerning the country



which caused activity on the level of international negotiation. One such issue which continued throughout the period of their rule was the outstanding debt owed by the Scottish government to Margaret, daughter of the Count of Flanders. The debt was that portion of the dower assigned to her on her marriage to Alexander, son of Alexander III, which had never been paid after the death of the prince. Margaret had, subsequently, married the duke of Guelders, and both he and Margaret's parents persistently attempted, through application to both the Scottish government and the English crown, to obtain payment of this money.<sup>56</sup> Another concern was the payment of money to the king of Norway in settlement of the arrears of the annual sum which the Scots had undertaken to pay for the wedding gift of the daughter of Alexander III when she married Erik II in 1281. By 1290 this annual payment was four years in arrears, and Erik tried by all the means at his disposal to procure payment.<sup>57</sup>

However, the main part of the international dealings with which the guardians were involved concerned the future of their young queen and the independence of the realm. One contemporary document stated that Fraser and the others were 'holding themselves as guardians of the realm of Scotland, to preserve and defend the established rights and liberties and customs of the realm'.<sup>58</sup> Their wish to affirm the political and territorial integrity of the kingdom was a consistent part of the policy of the guardians from 1286 - 1291. It can be seen in various minor ways, such as the guardians' arrest of Richard Knout, mentioned above: in his capacity as an English official he had trespassed upon the guardians' authority. English officials could not be allowed thus to act freely within Scotland, and in order to

assert the sovereignty of the realm, the guardians therefore took appropriate action.

More importantly, the guardians' attitude to the church is relevant to the question of liberty. The Scottish church had for long been a major influence on the policy of the monarchy, staunchly resisting attempts to subject it to one or other of the English metropolitan sees over a period of some two centuries. The church leaders themselves usually gave healthy support to the cause of independence, since the subjection of the kingdom would imply also the subjection of the church. The secular government thus tended to support the church and ensure that those who held positions of influence within it (and who were therefore also normally prominent in the state, because of their education and experience), would follow the policies adopted by the administration. The guardians appear to have followed the normal line with regard to the church. Probably through their nomination, and certainly with their approval, Matthew Crambeth was elected and consecrated to the see of Dunkeld in 1288<sup>59</sup>, which see had been vacant since the death of the previous bishop, William, sometime after 1285. Crambeth was a strong supporter of the patriotic cause throughout the guardianship, Balliol's reign, and thereafter; he played a full part in the negotiations with France in 1295, was probably one of the 'council of twelve' elected to govern Balliol, and appears to have been a permanent envoy in the French court for the Scots between 1295 and 1303: the guardians were plainly concerned that those who occupied the high positions in the church should be of the right political persuasion. Apart from the individual efforts of many church



leaders, there is one hint that the policy of the church as a whole was in favour of a patriotic stance: on 1 April 1289 Pope Nicholas IV issued a bull to Scotland criticising the practice whereby only natives of the kingdom were admitted to religious houses or offices, which, he said, was not without danger to the soul, and to the detriment of the houses and offices concerned, since the most able men might be excluded in favour of those who were less fitted to the positions.<sup>60</sup> Such a policy could only have been pursued in response to political objectives in line with the diplomatic activities of the guardians.

Far more space in the records, however, is given over to the affairs of the monarchy. The Scots government was overwhelmingly concerned with the business of bringing their queen to her kingdom, finding support without jeopardising the realm's liberty, and, after Margaret's death, establishing who was the rightful successor to the throne. The course of the negotiations leading to the treaties of Birgham and Salisbury has already been discussed; these years saw a great deal of international negotiating, out of which the guardians came creditably, having done their duty to the queen, the kingdom, and the community of the realm. The bargain made in the years 1286 - 1290 might have been seen as a triumph for the guardians had it not been for the premature death of the queen, for, at a stroke, all the work of the previous three years was undone, and the guardians, now without a monarch in whose place to rule, had to start again from an even bleaker position than that of 1286.

Their duty, however, remained the same. They had to continue to administer the kingdom, and to protect its sovereignty. The

administration, as shown above, continued in all the various avenues of its business. The question of sovereignty, however, was now more difficult: the concept of a kingdom with no king was an anomaly. Clearly, the first priority was to find a king who could, or in whose names the guardians could, firmly re-assert the status quo of the realm. There is evidence that this search for a king quickly polarised into two factions, pro-Bruce and pro-Balliol. The course of the political turmoils of these years has been recounted above, but it is worth stressing that, like the rest of the country, the guardians appear to have taken sides: Wishart and the Steward, both of whom were to be auditors for Bruce in the Great Cause, objected to the attempts apparently made by Fraser and Comyn to make Balliol king. The result was a stale-mate which could only be resolved by some outside arbitration. Thus when Edward I invited the guardians and other chief men of Scotland to come to him at Norham for discussions regarding the succession, the guardians may have seen in this a way out of their predicament. The very fact that the Scots, led by the guardians, went to Norham in 1291 shows that they were aware of their responsibilities in guarding the realm's liberties, and were intent on fulfilling them. When Edward I made the request for acknowledgement of his overlordship, the Scots found themselves in an awkward position: they might find a king through obedience to Edward, but in so doing they would have to give away the liberty which it was their duty to preserve. Their plea of insufficient authority to answer Edward's demands may have been futile in effect, and it may have seemed as if they were merely playing for time, but it was in part a truthful representation of their situation, for they



did not have the power to sign away the independence of the realm. That does not imply any helplessness or weakness on their part, although it sometimes suited their propagandist purposes to represent themselves in that light: they were neither weaker nor stronger than any king would have been, for no-one had the right to give over the liberty of the kingdom, which belonged not to the king or guardians, but to the very concept of the kingdom, the royal dignity, an abstract and continuous entity which none of those who held its custody had the right to diminish in any way whatsoever.

Edward, dismissing their reply as ineffective, then went directly to the competitors, one of whom was, after all, the legitimate king, and obtained the recognition of overlordship from each of them. Persuaded, perhaps partly by the military force which Edward had assembled in preparation for this meeting, that this piece of legal side-stepping was the best way out of their quandary, the guardians followed the only possible course of action, and resigned their office into Edward's hands. The legality of the affair, from the Scots' point of view, was at best dubious, but that may have been an advantage, since a suitably strong future king might be able to claim that the recognition of Edward as overlord was without effect, having been made under duress. For the moment, it was the best option which the Scottish guardians and community had, for only by these means were they likely to establish their rightful monarch on his throne without a great deal of bloodshed.

That episode brought the first Scottish guardianship to a rather inauspicious end. The lengthy discussion which has been given to this guardianship is designed to give as complete as possible a

picture of the style and effect of their administration, so that it may be compared with those of later guardianships. The guardians looked upon their rôle as that of a substitute for the monarch; there was no part of the normal administration of the realm which they could forego, since by neglecting any detail of the government they would have failed truly to protect all the interests of the monarch, known or unknown, whom they represented. Above all, their duty was to keep intact for their monarch the foundations of sovereign rule, the independence of the kingdom. In the end, this guardianship failed in that task, perhaps inevitably, given the tragic way in which well-laid plans were foiled by events over which they could have had no control. They did their utmost throughout their period of power to uphold all the duties incumbent upon them, and to a remarkable extent they were successful, despite the great adversity in which they had to work.

Comparison of the later guardianships with the administrative style of the 1286 - 1291 group shows that their ideals in government were the same. The protection or re-establishment of justice and freedom, the restoration of native administration of all the kingdom's resources, and the control of the commercial and military assets of the crown were all displayed, although to varying degrees on account of the differing military and political situations in which the various governments found themselves. There may be some case for treating the council of twelve which was elected in 1295 as a type of guardianship. However, it differed from the other governments under discussion in that there was during its period of



power a king in the country who had been inaugurated, and who was in control of his faculties. The committee of twelve seems to have been to some extent an informal body: it finds no mention in any record source, and never, apparently, gave itself a formal style. The government which administered the affairs of the kingdom in 1295 - 1296 was King John's, the committee of twelve fulfilling, nominally at least, an advisory rather than an executive rôle. The extent to which John may have been forced to accept their advice may not be open to very much doubt, but nevertheless in official terms it was still he who ruled the kingdom in his own name.

The second guardianship to be discussed is therefore the one which Wishart, the Steward and Bruce attempted to set up in 1297. Their failure fully to seize the reins of government from the English occupation forces means that there is little material with which to work. That these men started to establish their own administration, however, is clear. A letter, probably from the English treasurer of Scotland, Cressingham, to Edward I, written on 24 July 1297<sup>61</sup>, states that the English administration was powerless to quell the rebellion. No money could be raised from the country; he was able to procure from the Scots "not a penny" until the Earl Warenne "shall enter into your land and compel the people of the country by force and sentences of law", and, furthermore, it appears that the Scots were themselves gathering the revenues which should have been paying for the English administration:

"And whereas, sire, you order me that if any Scotchmen have paid to your enemies rents... [which] ought to have been paid to you, I should cause them to be levied again to your use...".

This letter lays open the inadequacies of the administration set up in 1296, revealing that many sheriffdoms were still unfilled, and that other English-appointed sheriffs had been ousted by the Scots, so that they "neither will nor dare return". In such cases, apparently, these officers had been replaced by Scottish appointees: "in some counties the Scots have set up and placed bailies and officers". Clearly, the country was severely disrupted by a rebellion aimed directly at the machinery of government; the local officers of central government were displaced, and the revenues diverted; we know from other sources that castles, the tangible symbols of possession of the country, were being attacked and taken<sup>62</sup>, and it is well known that Wallace and his companions attacked the English justiciar Ormsby<sup>63</sup>, and that Wallace was responsible for at least one of the vacated sheriffdoms mentioned by Cressingham.<sup>64</sup> This was no random rebellion: it was a concerted effort to destroy the ruling administration by simultaneous attacks on the military, financial, legal and judicial machinery. It is plain that the disruption caused great consternation; frequent reference to serious debilitation of communications makes it plain that central government could not have taken immediately effective action even if there had been adequate supplies of money and men, simply because it was not known what was happening in any given area at any given time.

The assertion of independence was, of course, the raison d'etre of the revolt, and it appears that this was seen in a national, almost quasi-racial light: various chronicles mention that the Scots killed or expelled all the Englishmen that they could find.<sup>65</sup> These



references, coming as they do from English chronicles, may well be overstatements, but it cannot be open to doubt that Wishart, the Steward, Bruce and the others did pursue a policy designed to rid Scotland of English interference: to expel Englishmen may well have been a logical first move. The reason for these actions lies far deeper than merely a stubborn refusal to accept changing circumstances; the nature of the kingdom as a political entity, and their position as leaders of it at that time, made it incumbent upon these men to assert the right of the Scots to govern themselves. Just as the guardians of 1286 - 1291 had struggled to maintain the realm's independence whilst attempting to re-establish a strong monarchy, so these would-be guardians had to attempt to achieve a situation in which a king or his representatives could rule according to the traditions laid down by his predecessors on the Scottish throne.

The negotiations surrounding their submission at Irvine in July 1297 amply demonstrate that they had risen against Edward I not through personal ambition or self-interest, but on behalf of the community of the realm. They claimed to speak not only for the nobility, but also for the 'middle folk' and the commons, and the settlement reached included assurances on the part of the English regarding the behaviour of the administration and its effect on the whole community. The Scots had started the negotiations saying that "they took counsel to assemble their forces to defend themselves"<sup>66</sup> when the English army appeared in 1297, because they had feared that the army would destroy their lands, and that King Edward would force the 'middle folk' to perform military service overseas. (This

question of performing military service for a foreign king was important: it was one of the issues specifically included in the treaty of Birgham in 1290.) Therefore they came to meet the English army so that they could discuss these things and receive assurances that the people of the land would not be thus oppressed. They wished peace to be brought about by pardoning of those who had rebelled, and requested "letters of friendship" to be issued for that purpose. The English negotiators, Henry Percy and Robert Clifford, agreed to the basic outline of the terms and, on 7 July, they wrote to Wishart, Bruce and the Steward<sup>67</sup>, confirming that they had received them and others to the king's peace, which was proclaimed for them "and for the whole community of the realm of Scotland".<sup>68</sup> It was accepted that no overseas military service would be demanded against the will of the Scots, and promised that no harm would come to the three protagonists. Two days later the Scots made their official statement of capitulation.<sup>69</sup> Humbler in tone than their previous statement, it merely said that they and others, with the community, having committed various crimes against his peace, gave themselves up to King Edward unconditionally, except for those matters mentioned in the letter from Percy and Clifford. Thereafter, the English commanders rejoined their compatriots at Roxburgh, reaching them with the glad tidings of the Scots' submission on 17 July.<sup>70</sup> The most interesting feature of these negotiations is the stress laid by the Scottish leaders on the community as a whole, the protection of which was the basic duty of king or guardians. That the common people were amongst the most important objects of governmental attention is stressed by another document which must date from the same period:



"To our lord the king and to his council, pray his people of Scotland that it pleases him, for God's sake, to grant a general brieve to the chamberlain of Berwick to maintain and govern them in the laws which were used and accustomed in the time of King Alexander, as their conditions made by the lords the earl of Angus, Percy and Nevill, at Roxburgh, will and require".<sup>71</sup>

This document probably implies that Percy's negotiating was not completed at Irvine. When he returned to his fellows at Roxburgh another petition met him, to which, apparently, he acceded. Whether it came from the leaders who capitulated at Irvine is unknown, but it can hardly have been an effort of the 'common people' themselves. Whatever truth lies behind this document, it emphasises that the government of the realm, whether Scottish or English, had to act in the interests of the common people, and within the traditional framework established by the kings of centuries past.

A large part of the more firmly established guardians' success was based on diplomacy and communication with countries overseas. There is evidence that the same pattern would have been followed in the summer of 1297, had it been possible. At any rate, Edward I certainly feared that approaches would be made to foreign agencies which might prove prejudicial to his interests, for in January 1297 he issued a letter<sup>72</sup> forbidding his lieutenant in Scotland, the earl Warenne, to allow anyone to leave the country without permission, and instructing him to arrest anyone found carrying letters. A second ordinance<sup>73</sup> severely restricted the passage of merchants within Scotland and established a close watch on those ports which were allowed to export goods, in order that

"no messenger carrying letters or message from abroad pass in any manner without especial warrant from the king, nor any other person carrying closed letters or other suspicious thing, but let such a person be taken

and kept in prison until the king shall have ordered his pleasure therein. And all the mariners who shall pass, every time that they set out, shall swear and be examined, and the merchants shall be free by their oath that they will carry no letters nor message whence mischief might arise to the king or the realm, and that they will bring nothing from abroad by deed or by word, by art or by fraud, which may be hurtful to the king or the realm. And the king wishes that the messengers be closely searched and examined..."

The ordinance continues, further providing for the searching and detention of all who used the ports, betraying an almost paranoiac fear of the Scots managing to set up an effective line of communication with the continent. Clearly, this was a course of action which Edward expected the Scots to follow, and the inference may readily be taken that they had already attempted to do so. The ordinance is, of course, also evidence that the trading activities of the Scots had far from ceased in this period; it appears that despite the war the commercial side of the country's life continued almost normally.

The way in which Wishart, the Steward and Bruce organised their uprising in 1296 - 1297, the fact that they immediately started to establish their own administration, the way in which they went about their affairs in the closing stages of their part in the revolt, and their expressed motives for their actions, all bear unmistakeable parallels with the style of government adopted by the guardianship of 1286 - 1291. Had these men withstood the English threat in July 1297, and continued a successful military campaign, in all likelihood their government would have outgrown its infancy, and theirs would have been the names which next appeared in documents bearing the official style custodes regni Scotiae.



In the event, it was the rather unlikely characters of Moray and Wallace who came to lead the government. The capitulation of the nobles at Irvine was not emulated by the rest of the community for whom they had claimed to speak, and the rising continued under the overt military leadership of Wallace and Moray, who, probably aided behind the scenes by those very nobles who had feigned submission to Percy and Clifford, built on the administrative progress which had already been made. By the autumn, when the Scots were in a position to fight an open battle and push the English power back over the border, the nascent system of administration seen in the summer months of 1297 had grown into an apparently fully operative government. There is a great dearth of evidence for the Scottish government in this period; due to the war, formal communication and record-keeping were disrupted on the Scottish side, and the English records, whilst fuller, tend not to acknowledge the waning power of the occupation régime and its replacement with a native administration. It cannot be doubted, however, that the policies of the pre-Irvine leaders were continued: castles were taken and garrisoned by Scots; as English sheriffs were ousted, Scots appointees replaced them. The army was raised to fight the campaigns of Wallace and Moray, and the summoning of such a host could only have been done through the work of local officials. To fight a war was an expensive affair, for which the revenues normally collected by the sheriffs was necessary, and a financial organisation was required to arrange the administration of these revenues: it is therefore probable that a chamberlain, or at least someone delegated to carry out his duties, was appointed in the autumn of 1297, and that the

usual staff of the exchequer were employed. (Regarding the lower grades of staff, it is not impossible, of course, that, as in modern times, the same personnel remained in office throughout all changes in government.<sup>74</sup>)

The policy of Wallace's guardianship is more easily established. Of the official documents issued between the battles of Stirling Bridge and Falkirk, only a few remain, but they nevertheless provide some useful information. The letter to the burgesses of Lübeck and Hamburg<sup>75</sup> is particularly interesting. The style 'leaders of the army' shows the principally military outlook of the policy at that time; the warfare had by no means ended, even although Wallace and Moray claimed, somewhat optimistically, to have 'recovered Scotland from the power of the English'. The continued military operations and the development of administrative machinery, discussed above, were aimed at the re-establishment of normal rule. It was also important, however, to attempt to stimulate the economy through renewal of the wonted internal and continental commercial activity, which, as noted above, had been severely restricted by legislation of Edward I. Thus the letter to Lübeck and Hamburg, which was probably matched by similar letters to traditional Scottish trading haunts, was part of a policy designed to revivify the Scottish economy, in order to increase the income both of individuals (such as the merchants specifically mentioned in the letter, who, stationed abroad during the occupation, probably acted as unofficial ambassadors for the Scots when messages could be slipped through the English blockade) and of the government. Only through such a policy could the government gain a sure footing and have the resources to govern for the common weal of all sections of the community.



In terms of judicial activity, there is very little which can be said of this guardianship. There are no records of justiciars or their courts, but one can nevertheless assume that the government paid attention to such a basic element of its normal work. The protection given by Wallace to the priory of Hexham<sup>76</sup> may reflect some feeling for justice, and the chronicle account of their issue<sup>77</sup> certainly represents Wallace as a man who, although ruthless and uncompromising, was not prepared to accept flagrantly disobedient or unjust behaviour by his troops. If any of the wild fantasies of Wallace's eulogistic biographer Blind Hary are to be accepted, then Wallace was a man of staunch moral conscience who allowed no injustice to go unpunished.

As for straightforward, routine administration, there is equally little evidence. As noted above, the war necessitated the collection of revenues at the local level, and if the machinery to administer that collection existed, then the likelihood of other routine affairs being carried out is high. Certainly, there is nothing outstanding about the charter of the constableness of Dundee given by Wallace to Alexander Scrymgeour.<sup>78</sup> That donation is of standard type, issued to reward adherents of the ruler for their services faithfully rendered. The protections are also standard documents, and support the contention that this government was not merely military in its outlook. The two documents from this guardianship which survive in the original<sup>79</sup> are both written in a good professional hand, and all four documents of which there is full record follow standard clerical practice and form, indicating that Wallace's government was backed by a professional chancery such as any king would have had. It is

probable that a chancellor was appointed, and his office would have conducted the normal day-to-day business of the realm's administration.

With regard to the questions of foreign diplomacy and the protection of the kingdom's independence, one cannot be sure of the extent to which the kingdom's interests were pursued in this period. Wallace obviously saw himself as the representative of King John in Scotland - his style made that clear - and that he still recognised Balliol as king implied that one of his aims was to bring him back to Scotland to rule in person. Wallace's plea when charged with treason after his eventual capture in 1305, was that he had never been a traitor to the king of England, since it was not possible to be a traitor to a king to whom one owed no allegiance.<sup>80</sup> (A similar argument had been used four years earlier, in the instructions given to the Scots embassy in Rome in 1301.<sup>81</sup>) Wallace's indictment<sup>82</sup> stated that after Edward had conquered Scotland, taken the homage and fealty of the prelates, earls, barons "and many others", proclaimed his peace, and established his administration "for the keeping of his peace and doing of justice howsoever according to the laws and customs of that land", Wallace had seditiously risen up against the king with many followers, and had attacked the governors and ministers instituted by King Edward. Thereafter,

"with an armed multitude which joined and adhered to him and his felons, he invaded towns, cities and castles of that land, and he proclaimed and issued his briefs over all Scotland, like the lord of the land, and he held and sat at his parliaments and gatherings, all the governors and ministers of the foresaid lord king in the land of Scotland having been overthrown by the said William".



Thus far, the indictment supports what has been stated above regarding Wallace's conduct of the normal judicial and administrative business of the realm. The next section, although undoubtedly overstated in this hysterical attempt to convict Wallace of almost every imaginable crime, gives some insight into his conduct of foreign affairs:

"he advised all the prelates, earls and barons of the land who adhered to his side that they should submit to the fealty and dominion of the king of France and give help to the destruction of the kingdom of England".

As had been done before, by those who counselled Balliol, and as would be done time and again by rulers of Scotland attempting to avoid English domination, Wallace approached the French for help, trusting that the poor relations between France and England could be turned to the Scots' advantage. Just over a month before the battle of Falkirk the French and English negotiators were in the final round of talks leading to a truce<sup>83</sup>, in the negotiations for which an important point of discussion had been the status of the Scots. Philip IV had included as one of his terms that the truce was to extend to the Scots and to John Balliol, "whom the French envoys call 'King of Scots'".<sup>84</sup> The English king gave lengthy reasons for refusing to accept the Scots' inclusion in the truce, and the French king accepted the agreement finally reached, reserving the Scottish question for further discussion. Ten days later, on 26 June, Philip wrote, confirming that the truce was in effect, and informing Edward that he had sent envoys to ensure that the Scots' inclusion was being observed.<sup>85</sup> These envoys may have had some connection with letters, no longer extant, sent to Edward by Philip, apparently by way of 'certain Scots', dated 12 July.<sup>86</sup> The emissaries of the Scots had

been hard at work presenting their case in the French court, apparently with some success. They had stressed two main points: the need for the release of Balliol and other Scots from English prisons, and the cessation of English hostilities towards Scotland. In other words, when the Scots went to France to plead their case, they went with the intentions of securing, ultimately, the return of their king, and of freeing Scotland from the threat of the invasion which they knew must be mounted in revenge for the defeat of the English host at Stirling Bridge. If Balliol was to return, he would require a land free from warfare in which to establish his authority. In view of the battle of Falkirk, fought so soon after the signing of the Anglo-French truce, it seems that the kings of England and France gave somewhat different interpretations to the terms of the agreement. Nevertheless, the Scots had been successful in gaining the support of King Philip, even if, at this stage, that support brought them little practical benefit.

The Scottish foreign missions had also been further afield than the king of France's court. Doubtless partly as a response to Scottish pressure, Pope Boniface VIII wrote to Edward in July 1298, saying how glad he was that a truce had been reached in the French war, and instructing him to desist from any disturbance or war in Scotland.<sup>87</sup> It can be no coincidence that this bull was written less than a month after the same pope had written to John, 'the illustrious king of Scotland', confirming the election of William Lamberton to the see of St. Andrews<sup>88</sup>, vacant by the death, in August 1297, of bishop Fraser. It is possible that the election of Lamberton was made on the instructions of Wallace: that he had forced



the chapter, against their will, into electing Lamberton, was alleged by the English in 1306<sup>89</sup>, but that document is probably an overstatement of the case. The claim that the chapter had already elected master William Comyn to the see, and was forced by Wallace to retract that election in favour of Lamberton, is probably without foundation, based on the complaint which Comyn had made about the election on totally different grounds.<sup>90</sup> It is nonetheless probable that Wallace, as guardian, had some considerable say in the election; for many years the kings had exercised a right to present their nominations to vacant sees, and normally the chapters made their elections accordingly. The leadership of the church was too important for control over it to be relinquished by the rulers of the country. In virtue of his guardianship, Wallace's writ bore royal authority, and so in all likelihood Lamberton was Wallace's nominee, in the name of King John. At any rate, he was elected to the see on 3 November 1297.<sup>91</sup> It is perhaps noticeable in this context that in the same paragraph as he deals with Lamberton's election<sup>92</sup>, Fordun states that on 20 August "all the English - regular and beneficed clergy as well as laymen - were, by this same William [Wallace], again cast out from the kingdom of Scotland". Clearly, Wallace was aware of the necessity of having the right people in ecclesiastical office.

After election, as was the custom with Scottish bishops, Lamberton had to go to the papal curia for confirmation and consecration, which probably took place on 1 June 1298.<sup>93</sup> It does not seem rash to suggest that this journey, long and, in those days of war, not without some peril, was used by the Scots as a diplomatic

mission to the rulers of those lands through which Lamberton passed. The bishop-elect may well have been partly responsible for the Scots' representation in France, and was almost certainly responsible for the propaganda which must have been presented to the pope before the issue of the bull of 1298.

It is also probable that Wallace had a hand in the election to the see of Brechin of John Kinninmund, who was consecrated at the curia, probably on the same day as Lamberton.<sup>94</sup> This man had made his peace with King Edward by April 1304<sup>95</sup>, which implies that prior to that he had not been at peace. He was a consistent patriot, and later supported Bruce in his rebellion of 1306. The presence of two patriotic bishops-elect on a diplomatic mission must have been influential: Wallace's government was prepared to take any available opportunity to push for the attainment of its objectives. Indeed, Wallace's awareness of the necessity of interesting other rulers in the plight of his country must be reflected in his own trips abroad after the end of his guardianship. The first time he went to France, before 20 August 1299<sup>96</sup>, he appears to have gone in opposition to the wishes of a section of the community. His travels did not, as Blind Hary would have us believe, terminate in France, where he supposedly agreed to fight for King Philip against the English; a safe-conduct issued by Philip IV<sup>97</sup> indicates that it was his intention to continue both to Norway and to Rome.

The government led by Wallace was, then, a fully restored version of that which had led Scotland from 1286 to 1291. Although there is little evidence for some of its activities and its organisation, it can be shown that, starting with the attempt by



Wishart and his companions to establish their own government in the first half of 1297, the Scots gradually built up an 'alternative' administration which, as it gained ground in both the financial and territorial senses, replaced the English government piecemeal. The military success of 1297 secured the position of this new government which soon established itself more formally, and carried out the full business of government in normal fashion. There was a good measure of diplomatic activity which, along with the increased emphasis on military affairs, reflected the way in which this guardianship had been established. To some extent the kingdom had been "recovered by war from the power of the English", and if the invaders were not immediately to regain the ground which had been won from them, war and diplomacy had necessarily to continue hand in hand. That this government managed to establish itself, regain control of all the main administrative functions, and continue to fight a war, partly on foreign soil, must be a testimony to the organisation and experience not only of the public figureheads, but also of the lesser men, who faithfully carried out the orders given by their more universally acclaimed leaders. In difficult times it was easy to order an official to collect revenue from a specified area, but very much more difficult to ensure compliance. It was on the efficiency with which difficult orders were carried out that the successful establishment of the Scottish guardianship of 1297 - 1298 rested.

Those who succeeded Wallace in the leadership of the community after the battle of Falkirk inherited an established administration as a fait accompli from their predecessors. The inability of the

English to build on their victory of July 1298 meant that the Scots lost very little of the advantage which they had gained in the previous year: apart from perhaps a few sherifffdoms their administration was left intact, and no threat was posed to their hold over most of the country. Thus, from 1297 until the surrender of 1304, the Scottish government remained essentially the same, with changes only in the leadership. The establishment of local officers and higher government officials only took place where made necessary by vacancy or conquest. There is a slight increase in the amount of Scottish record evidence available for this period, which makes it possible to confirm that over most of the country the Scottish government's writ ran in usual fashion. For example, sheriffs can be named for eleven Scottish sherifffdoms in this period. Some of these (Edinburgh, Stirling, Lanark and Roxburgh, for instance) were at times in English hands, as the fortunes of the two sides fluctuated, but some were undoubtedly Scottish appointments. For instance, in the summer of 1297 the English sheriff of Aberdeen went over to the Scottish side of the struggle.<sup>98</sup> He evidently retained the sherifffdom for some time, until, in February 1300, John, earl of Atholl is found in that position.<sup>99</sup> A supporter of the national cause throughout most of the period, he is likely to have been the guardians' appointment. By 1304, however, Alexander Comyn, the brother of the earl of Buchan, was sheriff of Aberdeen.<sup>100</sup> Presumably the change had taken place when the Scots surrendered to the English king in February 1304, a point which apparently rankled with the earl of Atholl, who had himself submitted.<sup>101</sup> Comyn apparently did not hold the sherifffdom for long, since by 9 or 16 March 1305 it was in the



hands of Robert Keith, the hereditary marischal of Scotland.<sup>102</sup> Again, this must have been Edward's appointment.

Another sherifffdom which demonstrates the changing fortunes of the Scottish government is that of Roxburgh. In August 1299 Ingram d'Umphraville, who within a year would be joint guardian with Comyn and Lamberton, was made sheriff of Roxburgh in a Scottish offensive which ousted Robert Hastings, the English sheriff who had been placed there in September 1296.<sup>103</sup> This same English appointee was back in possession of the sherifffdom in 1304.<sup>104</sup> The sherifffdom of Lanark is another example: in 1301 it was held by a supporter of the guardians, Walter Logan of Hartside<sup>105</sup>, but by the end of 1303 it was apparently in the hands of his lord, Robert Bruce, earl of Carrick<sup>106</sup>, who by then had made his peace with king Edward, and so would not have been an appointee of the guardians.

These few examples show how the sherifffdoms were one of the most essential elements of any government's ability to rule. In a situation such as obtained in the years 1297 - 1304 the sherifffdoms, like the castles, became a constant symbol of the struggle for mastery. They closely represented the fluctuations in comparative power of the two administrations: the Scottish one which in fact governed most of the country, and the nominal English one which, until 1303, rarely achieved very much in practical terms. Clearly, as soon as either side felt it had power in any particular area, it replaced the existing officers of government with its own representatives. This must have caused some confusion, and it is remarkable that any plain picture can be drawn of Scotland in this period. Because most of the records are of English provenance it is

hardly surprising that there are references to named sheriffs in almost all the sheriffdoms from the year 1305, but that no records exist relating to many of them for a considerable space of time before that. This should not lead us to conclude that sheriffdoms lay vacant from one period of English administration to the next, but rather that there are no records which tell us who most of the Scottish-appointed sheriffs were. That the Scots did recognise the importance of the sheriff, and made full use of his services, cannot be doubted.

As regards other officials, the guardianships of 1298 - 1304 can be shown to follow the usual pattern. In 1300 John Comyn, earl of Buchan was justiciar of Scotia.<sup>107</sup> Nicholas Balmyle, who for some years had been involved with the guardians, having been entrusted with the administration of the diocese of St. Andrews during the vacancy preceding the election of bishop Lamberton, had been appointed chancellor by January 1301.<sup>108</sup> That these men did fulfil their respective rôles is easily proven. In February 1300 Comyn held his justiciar's court in Aberdeen, hearing a case which involved men of the abbot of Arbroath<sup>109</sup>, and in the records of a later case, we hear that "sir John de Mowbray sued sir Malise, earl of Strathearn before sir John Comyn, guardian of Scotland, for ravaging his lands of Methven".<sup>110</sup> One final point in the matter of justice concerns another judicial functionary who appears on record in this period, the judex or brithem, a class of professional lawyers who were a throw-over from pre-feudal society. These lawmen acted as judges in the courts of noblemen, sheriffs, justiciars or the king, who would frequently have judices for particular areas of his kingdom. By the



close of the thirteenth century references to judices are infrequent, but there were still some in employment in this period: one Cristinus judex is to be found in the witness list of the document recording the proceedings of the earl of Buchan's court mentioned above, obviously included there because his legal training and title gave to the document an added air of authority. Judices are also to be found in Moray, Angus and the Mearns, and Gowrie within the period of this guardianship<sup>111</sup>, a clear sign that judicial business was being pursued. It must be stressed that these were not government officials in the normal sense: they were public officials of an archaic type who, by this period holding their positions almost hereditarily, would usually therefore survive changes in government and political circumstance. Nevertheless, their presence shows that there was an understanding of the necessity of the judicial process under the rule of guardians, as well as under more normal constitutional situations: there was no question of a break-down of law and order.

As for chancery, its workings can once again be easily demonstrated. Official documents of the guardians are not numerous, but do exist. From the Bruce-Comyn period of guardianship there remains a brieve by Bruce on behalf of them both, ordering Alexander Scrymgeour to be maintained in the constableness of the castle of Dundee and the lands given to him by Wallace.<sup>112</sup> Bruce, Comyn and Lamberton wrote to Edward I in November 1299, regarding a truce in the war.<sup>113</sup> No official documents appear to remain from the guardianship of Comyn, Lamberton and Umphraville, but several are extant, and more noted, from the period of Soulis and Comyn's rule,

from May 1301 to February 1304.<sup>114</sup> These documents are varied in type, but many of them are routine, such as the brieve to the court at Aytoun, or the charter of confirmation to Scrymgeour. These documents are clearly the work of an established chancery.

For a chamberlain's office in this period there is no evidence. However, the arguments propounded above<sup>115</sup> for the financial affairs of Wallace's rule, stand also for this period: the fighting of a war, the payment of officials, the conduct of diplomacy, could only be accomplished given the support of an adequate financial organisation. There must therefore have been a 'chamber', or ~~ex~~<sup>ch</sup>hequer in Scotland between 1298 and 1304, and there must have been some official fulfilling the duties of chamberlain.

The upholding of the policy towards the church and the conduct of foreign relations continued to be pursued under the various leaderships after July 1298. In June 1299 David de Moravia was consecrated at Anagni for the see of Moray, having been elected to the see, from his position as a canon of Moray, on the death of his predecessor, Archibald.<sup>116</sup> Of the same family as the Morays of Petty, and an uncle of Andrew Moray, Wallace's co-leader of the army, his position in a notable patriotic family and his record of loyalty to King John must have been of relevance to his election. Like Lamberton and Kinninmund, he probably acted as a diplomat for the Scots when he attended the curia: it can be no coincidence that the bull Scimus Fili<sup>117</sup> was issued on the day preceding his consecration. Apparently his patriotic conscience prevented this bishop from submitting to the English king along with the others in 1304, as he was still an enemy of Edward I in June of that year.<sup>118</sup> He also rose with Bruce in 1306.



The see of Argyll, vacant by the death of Laurence, which took place after 29 October 1299, was filled by Andrew, a dominican friar of whose background nothing is known, who was consecrated on 18 December 1300. This bishopric was usually in the hands of, or controlled by, the staunchly pro-Balliol Macdougall family. Andrew's predecessor Laurence was probably of this family, and was also a dominican friar, and it is thus likely that Andrew was, at the very least, acceptable to that family. He must also have been acceptable to the guardians (Lamberton, Comyn and Umphraville), to whom his letters of appointment were addressed. "His appointment must have symbolised resistance to Edward, whatever Andrew's origin and career had been to earn him such trust."<sup>119</sup>

When Alpin of Strathearn, bishop of Dunblane, died in 1301, Nicholas, abbot of Arbroath and canon of Dunblane was elected in his place, and was consecrated in Rome on 13 November 1301.<sup>120</sup> Little is known of his career, but again it is unlikely that his election would have been allowed had he not been acceptable to the Balliol cause, particularly at that time when, under the leadership of Soulis, the king's cause appeared to be flourishing. Once again, his trip to the curia would probably have had diplomatic as well as ecclesiastical significance. As can be seen very plainly from these elections, especially that of David de Moravia, the church was of great concern to the guardians. To keep control of the church, or at any rate to retain its support, was to win a great source of educated, experienced counsel, financial and political aid, and the fount of much of the national feeling in the country.

The diplomatic activity of the Scots reached new heights in this period. Due to their efforts in 1297 and 1298, the Scots had achieved some success which gave an air of realism to their campaign to restore Balliol to his throne. The pope had written to Edward I ordering him to release Balliol<sup>121</sup>, and in July 1299 this was actually done. Edward handed Balliol over into papal custody,

"saving to our lord the king of England and his heirs, kings of England, the realm of Scotland, the men, the inhabitants, and all the appurtenances of the said kingdom. That is to say and understand that our lord the pope cannot ordain or decide respecting the aforesaid realm of Scotland, nor concerning the men, nor the inhabitants, nor the appurtenances of the same realm for the aforesaid John de Balliol, nor for his heirs, who are or who may be, nor for the appurtenances by any cause whatsoever".<sup>122</sup>

But the success of the Scottish propagandists at the curia had perhaps not been fully realised by the English. On 28 June 1299 the pope wrote from Anagni that the

"excesses, molestations, disturbances, damages, injuries, and afflictions worked by our beloved son in Christ Edward, illustrious king of England and his officials and people, against the realm of Scotland, the prelates, clergy and people of the church, both clerical and secular, and the churches, monasteries, and other religious places, and against the people and inhabitants of the said kingdom, and their goods..."

could not be supported by the holy see; if Edward held an honest belief in the justice of his actions, then he should go to the curia and plead his case before the pope, with whom judgement rested.<sup>123</sup> This letter was not, in fact, delivered until the following summer, but that it was issued in 1299 must be of some significance.

As late as July or August 1299 Lamberton was still in France at the court of Philip IV, having gone there to join other Scots envoys and magnates after his consecration in the summer of 1298. In April



1299 Philip IV wrote to the Scots<sup>124</sup> saying that he had received two new envoys "with sincere affection", and was "moved to his very marrow by the evils brought on their country". Their faithfulness to their king, he said, and their staunch defence of their realm, found his approval. His letter also reminds us that the diplomatic war was not without physical difficulties. To travel the sea and land routes to the continent was not always easy in time of peace, but in war, when enemy ships kept constant vigil at the crossings<sup>125</sup>, there must always have been considerable danger. Thus Philip answered certain Scottish requests by word of mouth, "bearing in mind the dangers of the road, and dreading the risks which sometimes chance to letters". One cannot but admire these men in their courageous missions to France, Rome and other countries.

The Scottish emissaries in France returned to Scotland in August 1299. About the same time there must have been talks with the English, a fact which proves that the Scots were in a stronger position than previously. The English were at this stage prepared to bargain with them, a new development, and evidently an exchange of prisoners was arranged.<sup>126</sup> Apart from the battle of Falkirk, which in the long term was no great English success, the Scots had fared well on both the diplomatic and military fronts. By the end of 1299 Stirling castle had fallen to them after a long siege.<sup>127</sup> Again in July 1300 the Scots negotiated with Edward I for peace, and felt confident, or rash, enough to suggest that if Edward would allow Balliol to rule over them peacefully and allow the magnates to re-possess their forfeited lands, they would desist from warfare. Otherwise they would defend themselves to the last. It can hardly

have been a great shock to them when Edward I chose to reject these terms, and the upshot was a skirmish on the banks of the river Cree in Galloway, from which the Scots "fled to the hills and marshes, like lepers".<sup>128</sup> Having achieved little except the capture of Caerlaverock castle, however, Edward returned south in the autumn. Even an English chronicler thought little of his king's achievement in this campaign:

"A poor little castle, called Caerlaverock,  
King Edward takes, no soul found in it,  
Except ribalds who hold it, vanquished at the entrance."<sup>129</sup>

The Scots, on the other hand, achieved some success. On 30 October, before Edward left the country, he granted a truce to last until the following May.<sup>130</sup> The Scots' ability to negotiate with the king, and to take advantage of the pressure which their envoys had persuaded Philip IV to exert on Edward I for a truce shows the success of their diplomatic activities. The documents recording the truce make it clear that it was given at the insistence of Philip IV. Nevertheless, it is remarkable to find a document dating from this period in which King Edward promises to

"hold and guard the people of Scotland and their supporters and allies... and their goods... so that in the truce they can build, fortify, work and cultivate as they will, and can go on the land and the sea from one land to another, as is normal".

At about the same time delivery was made of the papal bull of June 1299. Why this bull was held over for so long is unknown, but it must surely have been due to the activities of the Scottish envoys in Rome that it was now sent.

When the triple guardianship came to an end in early 1301, and Soulis and Comyn formed a new leadership, there was another upsurge



in the diplomacy carried on by the Scots on behalf of King John. Probably this reflects Soulis' position as John's personal nominee: part of the reason for his appointment may have been that Balliol, once living more freely in papal custody, was in a better position to direct affairs in the way seen by him as most likely to gain his re-instatement. Throughout the summer and autumn of 1301 English agents were busy at the curia presenting counter-arguments in response to the bull of June 1299.<sup>131</sup> The Scots, too, were not idle: perhaps it is to this period that we should ascribe a safe-conduct for Wallace from the 'King of Scots'<sup>132</sup>, for it is certain that in the period 1300 - 1301 Wallace at least attempted to make his way to the curia.<sup>133</sup> However, a more formal embassy, for which there is more straightforward evidence, was at work on the Scots' behalf by the summer of 1301. In May 1301 Soulis and the community of the realm sent a delegation to Rome to answer the case put forward in the letters of the English king and nobility. Of the three men who carried out the Scottish pleading, the leader and most famous was Baldred Bisset, whose Processus, along with the instructions given to the embassy<sup>134</sup>, still survives. The embassy's case concentrated on the age-old right of Scotland to freedom from any domination, and it gave its own account of Anglo-Scottish relations from fabulous times through to the contemporary period. The Scots were, in these years, successful in the pleading of their case, for by the autumn of 1300 the papacy had acknowledged that Balliol's deposition had been unjust, calling him 'illustrious king of Scots'<sup>135</sup>, and, even earlier, the pope had released him from custody to live on his family estates in Picardy. His guardians now issued documents not only on

his behalf, but actually under his own name. Even King Edward, noting the flow of the tide, had to admit the possibility that either John or his son Edward would regain the Scottish throne for the Balliols.<sup>136</sup>

Doubtless confident in the happier aspect which their affairs now bore, the Scots sent an embassy to England in the spring of 1301<sup>137</sup> to treat for a final peace before the truce of October 1300 expired. They returned in April having had no success, and an English army came north in the summer. It achieved little, but was sufficiently secure to winter in Linlithgow. In January 1302, once again through the efforts of French envoys, as a condition of the peace made between the English and the French at Asnières, a truce was given to the Scots for nine months.<sup>138</sup> That Edward had not softened in his resolve towards the suppression of the Scottish rebellion, however, is evident from the addition to the treaty of a final clause which states that

"the people of the king of France will always call John 'king of Scots', and say that he and the Scots are allies of the king of France, and the ambassadors of the king of England will always maintain the contrary and call him John Balliol and say that he is not king of Scots, and neither is he, or are the Scots, allies of the king of France".

There was no question of Edward's totally giving in to pressure, whether applied by the Scots, the French or the pope. The Scots continued to work at the French court, pressing for French insistence on a peace settlement for Scotland before any could be finalised between England and France. In May 1303 Lamberton, Matthew Crambeth, bishop of Dunkeld, John Comyn, earl of Buchan, James the Steward, John de Soulis, Ingram d'Umphraville, and William Balliol were still



in France<sup>139</sup>, where most of them had been since the autumn of 1302.<sup>140</sup>

But by then the situation had changed. The great flurry of activity between 1300 and 1302, which had seemed to augur so well for the Scots, was foiled by events almost totally unrelated to the Scottish situation. The French were seriously weakened by a massive defeat of their forces at Courtrai in July 1302. Their main objective thereafter was to gain peace with Edward I; the high-powered Scottish commission of late 1302 could not prevent them from making a peace with the English which excluded the Scots, and they returned to Scotland in February 1304.<sup>141</sup> Their letter of May 1303 to the community of Scots<sup>142</sup> had been an admission of failure, but they had nevertheless encouraged the Scots to continue resistance whilst they still attempted to win some concessions. However, their chances were never more than slender. The pope, too, was losing heart: Philip IV had quarrelled with him, and he was thus less willing to support the Scots, Philip's allies. In particular, now that the Anglo-French war appeared to be drawing to a close, the Scots, who had been a useful tool with which to put pressure on the English, were less important on the international scene, and indeed they now stood in the way of peace. By August 1302, therefore, the pope's pro-Scottish fervour was, to say the least, abating. There is a sign that English propaganda was being more favourably received by that time in a letter of Pope Boniface to Robert Wishart, bishop of Glasgow, in which the pope expressed the concern which he had felt when he had heard that Wishart was "the leader and principal favourer of all the turbulence, dissension and discord which was and is

between... Edward king of England and the Scots". The pope's displeasure was clear: "you thus render yourself obnoxious to God". In order to gain peace between the Scots and the English, Wishart and the other prelates were instructed to reform their ways. A similar letter was sent to the other bishops "constituted throughout the kingdom of Scotland" (episcopis per regnum Scotiae constitutis).<sup>143</sup>

Militarily, the Scots were holding their ground. In January 1303 they were still "invading the land, castles and towns" of Scotland, causing Edward I some concern<sup>144</sup>, and in February they defeated an English force at Roslin, a victory which apparently caused some stir on the continent.<sup>145</sup> However, the real battle for Balliol's restoration had always been fought with diplomatic weaponry. With the desertion of the pope and Philip IV, the Scots' fight was now hopeless. Balliol himself had realised this by November 1302, when he signified in a letter to Philip IV<sup>146</sup> that he had given up hope. A large English invasion in the summer of 1303 sealed the fate of this round of the national struggle, and early in 1304 most of the Scottish leaders submitted. That phase of the war, in both military and diplomatic terms, had been won by the English. Through almost frenzied activity the Scots had improved their position enormously between 1297 and 1303. The successive guardianships had consistently waged war on both military and diplomatic fronts, with the intention of obtaining first the release, and then the restoration, of King John, the validity of whose deposition they refused to admit. In the first of their objectives they had succeeded, and had the course of international politics not turned against them, it is quite possible that the second would also have been achieved.



All the guardians were concerned to bring about the return of their king and the re-establishment of constitutional normality. The business of government, which they carried on as fully as their various circumstances allowed, involved them in many different activities concerned with the administration of the realm. Above all, however, it involved them in campaigning for recognition of the independent status of their kingdom. That campaign required them to undertake a far greater amount of international negotiation, at a higher level, than most of the kings of Scots who had preceded them. This pitching of Scotland into the melting-pot of European politics, and the amount of discussion thus brought about through negotiation and preparation of cases, must have been partly responsible for the admirable resolve of the Scots in this period. When there was no king to hold the crown, which was after all the ultimate symbol of sovereignty, the conviction that Scotland was an independent kingdom grew more strongly than during periods of normal royal rule. To put it another way, the idea of the 'nation' blossomed when the political entity, the 'kingdom', was threatened. To justify his fight against the 'English'<sup>147</sup>, a Scot had to be aware that the 'English' were different, and represented something apart: in effect, he had to believe in his own 'Scottishness', and in all the theoretical and practical trappings of sovereignty which went with it. The war cannot have been seen in a straightforwardly racial light: racial diversity was well recognised, and at times troublesome, within both kingdoms. The question was, whatever his 'race', did a man associate himself with the abstract notion of 'Scotland', or of 'England'? The distillation of such an idea comes close to a definition of the

concept of nationhood. The guardians, through their diplomatic and military struggle, did not achieve their practical aim, the re-assertion of Scottish sovereignty in the person of a restored king. What they did achieve, however, was the further development of the idea of the nation. It cannot be sensibly denied that such a notion existed in the late middle ages. After Bruce's coronation, in October 1306, even Edward I recognised that there were two 'nations' in the island of Britain, when he referred to the people of "the nations of England and Scotland" (Angliae et Scotiae nationum).<sup>148</sup> In their propaganda piece prepared for the 1321 peace negotiations, the Scots claimed that their kings had always reigned in freedom, "without subjection to any nation" (absque alicuius nacionis subjectione).<sup>149</sup> Fordun says that after the ordinance of 1305, the "English nation" (Anglicana nazione) lorded it over all Scotland, and he further states that by his rebellion Bruce freed the "Scottish nation" (Scoticae nationis) from bondage.<sup>150</sup> It must be accepted, of course, that the word natio may not have had precisely the same connotation then as now, but it must nevertheless have borne a meaning beyond that of the more commonly used terms, such as regnum, terra, and patria, implying at least a political and psychological unity which transcended racial division. The concept of the 'nation' gave the Scots the will and the motive to continue their fight; it inspired their magnificent propaganda; and it was to give Robert Bruce the chance to make good his claim to the throne in the next round of the contest.

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NOTES

- 1) Exch. Rolls I, pp.35-51. (Malise, earl of Strathearn is styled a 'bailie' of the sheriffdom of Auchterarder. Presumably he was administering it in the absence of a sheriff, or during a vacancy.)
- 2) Stones and Simpson, Edward I II, pp.100-101. These letters refer to ward of castles, but, wherever checkable, the same men appear to have been sheriffs of those areas. These castles are the royal seats of the sheriffdoms; their keepers are the sheriffs.
- 3) Ibid., p.100.
- 4) Exch. Rolls I, pp.36-37.
- 5) Cal. Docs. Scot. II, no.272. See Barrow, Kingdom, pp.132,138. See also Exch. Rolls I, p.47, where Soulis claimed expenses for the defence of the realm, as justiciar, after the death of Alexander III.
- 6) Barrow, Kingdom, pp.132, 138; Barrow, Robert Bruce, p.38, n.5.
- 7) E.g. Exch. Rolls I, pp.42,46.
- 8) See the sketch of his career in Watt, Dictionary, pp.85-86.
- 9) Exch. Rolls I, p.51.
- 10) Stevenson, Documents I, p.62.
- 11) February 1292. See British Chronology, p.189.
- 12) Exch. Rolls I, p.35.
- 13) Ibid., p.47.
- 14) Ibid., pp.36-37.
- 15) Ibid., p.37.
- 16) Ibid., p.44.

- 17) Ibid., p.46.
- 18) Kelso. Liber. I, pp.37-38.
- 19) Aberdeen Burgh Chrs., pp.289-90.
- 20) Ibid., pp.290-91.
- 21) Exch. Rolls I, pp.35, 39.
- 22) Ibid, p.36.
- 23) Ibid., p..38, 44, 42.
- 24) Ibid., p.44.
- 25) Ibid., p.47.
- 26) Formulary E, no.89.
- 27) Inchaffray Chrs., p.110.
- 28) Melrose Liber, pp.359-60.
- 29) Nat. Mss. Scot. I, no.70.
- 30) Stones, Documents, pp.[44-50].
- 31) Stevenson, Documents I, pp.21-22, 199.
- 32) Cal. Docs. Scot. II, no.291.
- 33) Stevenson, Documents I, pp.26-27. (Cal. Docs. Scot. II, no.307 gives the surname as Moray.)
- 34) See, e.g., Stevenson, Documents I, pp.52-53, 58-59, 65-67, 71-78; Cal. Docs. Scot. II, no.360.
- 35) Stevenson, Documents I, pp.49-50, 52-53.
- 36) Ibid., pp.79-80, 121-22.
- 37) Ibid., pp.83-85. The story apparently ended happily, for in May 1290 his lands and liberties were restored, and eight months later the amount was set for the payment he would have to make for permission to marry her (Ibid., pp.154-55, 214).
- 38) Ibid., pp.126 (facsimile in Nat. Mss. Scot. I, no.69), 126-28, 198-99.
- 39) Ibid., pp.198-99.



- 40) Exch. Rolls I, pp35. Also, e.g., p.36. Where no specific references are given, the information for the following paragraph is taken from Ibid., pp.35-51.
- 41) Not only royal castles received such treatment. The sheriff of Edinburgh received 18s. for repairs to the mills of Bathgate and Ratho (Ibid., p.43).
- 42) Ibid., p.41.
- 43) Ibid.
- 44) Stevenson, Documents I, pp.24-26.
- 45) Ibid., pp.95-96.
- 46) S.R.O. Ms. RH5/226/4. (Misdated (June) in Handlist of the Acts of Alexander III, the Guardians and John, p.47, no.302.)
- 47) S.R.O. Ms. Collection RH5 (documents returned from P.R.O.).
- 48) Exch. Rolls I, p.37.
- 49) Ibid., p.49.
- 50) Ibid., pp.39,44.
- 51) Stevenson, Documents I, pp.220-21. Deacon's case is particularly revealing as to the nature of such trading operations; he is described as "burgess of the town of St. John of Perth, the merchant of Joan, countess of Fife", which probably indicates that the buying and selling was at least partially done on her behalf and with her financial backing: in effect, he acted as factor for her. I am grateful to Dr. M. Lynch for advice on this matter. This is an unusual reference to find so early, but in the fifteenth and sixteenth centuries it was apparently common practice for merchants to act as factors for nobility.
- 52) Stevenson, Documents I, pp.230-31.
- 53) Ibid., p.12 (and, e.g., pp.65-67).
- 54) Ibid., pp.153-54. It is also noteworthy that William of Duddingston's grant was made at the request of Simon, brother of the bishop of St. Andrews, which may indicate that this William also had some mercantile connection with one of the noble families of Scotland.

- 55) The expenses incurred by Edward I in sending a ship to Norway to bring Margaret to Scotland in 1289 (Ibid., pp.186-92) are also interesting, although not strictly relevant to Scottish trading activities. Among the goods procured were wine, flour, beef, beer, ham, salt, fish (from Aberdeen), various other types of fish, almonds (some of which were apparently given to the Grey Friars because they were rotten!), rice, gruel, beans, peas, wheat, mustard, onions, vinegar, garlic, cheese, nuts, salt, sugar, various spices, figs, raisins, candles, tallow, linen, wax and sundry other items. Some of the wine and flour was provided by a merchant named Henry the Scot, whose name may bear some significance. The amount of money involved was considerable, but more important is that the list demonstrates the huge variety of goods from all over the world which were available through merchant activity in the late thirteenth century.
- 56) E.g., Ibid., pp.5-8, 9-11, 12-17, 17-20, 30-32, 41-44, 97-101, 101-103.
- 57) Foedera I, p.732, and, later, p.786.
- 58) Stones, Documents, p.[93].
- 59) Stevenson, Documents I, pp.45-49.
- 60) Foedera I, p.707.
- 61) Stevenson, Documents II, pp.206-209.
- 62) E.g., in the letter of 11 June, Edward refers to attempts to take Urquhart castle (Rot. Scot. I, pp.41-42).
- 63) Chron. Guisborough, p.295.
- 64) In May, Wallace killed the English sheriff of Lanark, William Hesilrig (Cal. Docs. Scot. II, no.1597; Stevenson, Wallace Docs., p.191; Chron. Fordun I, p.328 (II, p.321)).
- 65) e.g. Chron. Guisborough, p.295: concludentes in ore gladii omnes Anglicos quos ultra mare Scocie invenire potuerunt. Also, Stevenson, Wallace Docs., pp.33-34.
- 66) Stevenson, Documents II, pp.198-200.
- 67) Ibid., pp.192-94.



- 68) tuite la communaulte du royaume de Escoce.
- 69) Palgrave, Docs. Hist. Scot., pp.197-98, and see pp.199-200 for securities required of Bruce.
- 70) Stevenson, Documents II, p.202.
- 71) Nat. Mss. Scot. II, no.7.
- 72) Cal. Docs. Scot. II, no.871.
- 73) Stevenson, Documents II, pp.131-33.
- 74) See below, p.233, nn.98,99.
- 75) Stevenson, Wallace Docs., p.159 (trans. Dickinson, Donaldson and Milne, Source Book of Scottish History I, pp.136-37).
- 76) Stones, Documents, pp.[77-78].
- 77) Chron. Guisborough, pp.305-306.
- 78) A.P.S. I, pp.453-54.
- 79) The Hamburg-Lübeck letter seems now to be lost, but may be seen in facsimile in Stevenson, Wallace Docs., frontispiece. The Scrymgeour charter may be seen in facsimile in Nat. Mss. Scot. I, p.xiv.
- 80) Stevenson, Wallace Docs., pp.189-90.
- 81) Chron. Pluscarden I, p.199 (trans. II, p.161).
- 82) Stevenson, Wallace Docs., pp.191-93.
- 83) Cal. Docs. Scot. II, no.990.
- 84) Philip IV had requested the inclusion of the Scots as early as February 1298 (Gascon Calendar of 1322, no.420: misdated (1297) in Foedera I, p.861).
- 85) Cal. Docs. Scot. II, no.993.
- 86) Palgrave, Antient Kalendars I, p.128 no.10. The date given 1288, makes no sense; but by 12 July 1298 Edward was approaching that area.
- 87) Foedera I, pp.897-98.
- 88) Ibid., p.893.

- 89) Palgrave, Docs. Hist. Scot., pp.331-40 (especially pp.332,339).
- 90) Comyn was provost of the old Culdee church of St. Mary's in St. Andrews, by this time a royal chapel. As such, he claimed a voice in the election, which had been denied him by the cathedral clergy (Stevenson, Documents II, pp.280-81).
- 91) Chron. Fordun I, p.330 (II, p.323).
- 92) Ibid.
- 93) Dowden, Bishops, pp.21-22.
- 94) Watt, Fasti, p.26.
- 95) Cal. Docs. Scot. II, no.338.
- 96) Ibid., no.1978.
- 97) Palgrave, Antient Kalendars I, p.134 no.46.
- 98) Stevenson, Documents II, pp.216-18.
- 99) Arbroath Liber I, pp.164-65.
- 100) Cal. Docs. Scot. II, no.1646.
- 101) Ibid., no.1633. This concerns Aboyne castle, which often appears to be associated with the sherifffdom in this period.
- 102) Aberdeen Registrum I, p.40.
- 103) Nat. Mss. Scot. II, no.8; Rot. Scot. I, p.30.
- 104) Cal. Docs. Scot. II, no.1646.
- 105) Kelso Liber I, p.161.
- 106) Cal. Docs. Scot. II, no.1420.
- 107) Arbroath Liber I, pp.164-65.
- 108) St. Andrews Liber, p.120.
- 109) Arbroath Liber I, pp.164-65.
- 110) Cal. Docs. Scot. II, no.1592.
- 111) For a list of judices and sources, see Barrow, Kingdom, pp.74-80.



- 112) Highland Papers II, p.131.
- 113) A.P.S. I, p.454.
- 114) See above, pp.182-83
- 115) See above, pp.224-25.
- 116) Watt, Fasti, p.215.
- 117) Watt, Dictionary, pp.411-13.
- 118) Ibid.; Cal. Docs. Scot. II, nos. 436, 440, 443, 444.
- 119) Watt, Fasti, p.26; Watt, Dictionary, p.11.
- 120) Watt, Fasti, p.76.
- 121) Foedera I, p.897.
- 122) Stevenson, Documents II, p.386.
- 123) Ibid., pp.376-77.
- 124) Cal. Docs. Scot. II, no.1301.
- 125) See, e.g., Ibid., no.1071: the Scots envoys attempting to return from France are to be captured if possible (July 1299).
- 126) Nat. Mss. Scot. II, no.8.
- 127) Chron. Walsingham, I, p.79.
- 128) Ibid., p.81.
- 129) Chron. Langtoft II, pp.326-27.
- 130) Foedera I, pp.924-25, 925.
- 131) Cal. Docs. Scot. II, no.1167.
- 132) Palgrave, Antient Kalendars I, p.134, no.46. No guardians previous to Soulis issued documents under John's own name.
- 133) Stevenson, Wallace Docs., p.163; Barrow, Robert Bruce, p.164, n.6.
- 134) Chron. Pluscarden I, pp.205-17, 178-201. The Instructions are translated in Ibid. II, pp.141-163.

- 135) Stevenson, Documents II, pp.420-21.
- 136) Stones, Documents, pp.[118-19].
- 137) Cal. Docs. Scot. II, no.1244.
- 138) Foedera I, p.937; see also English and French ratifications of the treaty (Ibid., pp.397,398), and Edward I's orders to his barons to cease hostilities against the Scots (Ibid., p.398); see also the Scots' confirmation (A.P.S. I, p.454).
- 139) A.P.S. I, p.454.
- 140) See above, pp.188-89, n.94.
- 141) Cal. Docs. Scot. II, no.1455.
- 142) A.P.S. I, p.454.
- 143) Foedera I, p.942.
- 144) Ibid., p.947-48.
- 145) A.P.S. I, p.454.
- 146) See above, p.189, n.96.
- 147) For use of the term 'the English', see, e.g., Bisset's Processus, p.207: ante conversionem Anglorum; and Anglorum bona omnia Scotis licuisset juste tollere et occupare. Nam ex tunc primitus odium suscitatum est inter Scotorum gentem et paganos Anglos naturaliter; Wallace's letter to Lübeck and Hamburg: regno Scotiae, Deo regraciato, ab Anglorum potestate bello est recuperatum (Stevenson, Wallace Docs., p.159).
- 148) Foedera I, p.1002 (cf. same term, 10 November 1306: Ibid., p.1003).
- 149) Linehan, Spanish Manuscript, p.114.
- 150) Chron. Fordun I, pp.337-38 (II, p.330).

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CHAPTER SIXTHE GUARDIANSHIPS OF 1286 - 13063: THE CONSTITUTIONAL JUSTIFICATION

The emphasis laid by the guardians on the restoration of the monarchy, and the ideas mentioned above relating to constitutional normality, sovereignty and nationhood, bring us to the last major issue regarding the rule of guardians: their constitutional position. The extent to which they claimed to wield sovereign authority, and the light in which their government was viewed both by themselves and by the community, bear broad implications for the position of the king in the Scottish constitutional set-up.

One activity which is usually seen as a sign of sovereignty is the holding of parliaments. This, the guardians certainly did. There are records of parliaments held without the presence of a king at Scone in April 1286<sup>1</sup>, at Birgham in March and July 1290<sup>2</sup>, at Torphichen in March 1298<sup>3</sup>, in the Torwood in November 1299<sup>4</sup>, at Rutherglen in May 1300<sup>5</sup>, and at Scone in February 1301.<sup>6</sup> There is a good case for supposing that the gathering at Norham in May 1291 is to be seen as a joint parliament of England and Scotland, and it is also likely that a parliament was held shortly after the battle of Falkirk, at which Bruce and Comyn were elected guardians. As a formal gathering of the community, the meeting in Selkirk forest in August 1299, at which Lamberton was elected to the guardianship, is probably to be seen as a parliament.<sup>7</sup> One of the charges made against Wallace in 1305 was that "he held and sat in his parliaments

and gatherings" in contempt of Edward I's appointed officials<sup>8</sup>, and we hear also of a colloquium of the guardians in the period 1298 - 1301.<sup>9</sup> The guardians clearly felt that they were in a sufficiently strong position to hold parliaments, make treaties, do royal justice, levy the 'king's dues', and generally conduct all the affairs of the realm in a manner similar to government under a king.

Why they felt able to do this, and why it was acceptable to the rest of the community, can only be gleaned from the seals and styles used by them, and from occasional documentary references. Their styles do not appear to have varied very much throughout the period. The first group of guardians were usually called "guardians of the kingdom of Scotland, constituted by common counsel" (custodes regni Scotiae de communi consilio constituti).<sup>10</sup> In March 1290 they appear as "guardians of Scotland elected by the community" (custodes Scocie de communitate electi)<sup>11</sup>, a title which closely parallels the earlier (1286) "guardians of the kingdom of Scotland, elected by the community of that realm" (custodes regni Scotiae per communitatem ejusdem regni electi).<sup>12</sup> The only other style to be found in the first period of guardianship is a simple abbreviated form: "guardians of the kingdom of Scotland" (custodes regni Scotiae).<sup>13</sup> Those styles show no significant variation. The statement that they were elected by the community is perhaps more specific than the other, which merely has them 'constituted through common counsel', but it amounts to the same thing. The guardians were to govern the community, the wholeness, of the realm, in the absence of a suitably inaugurated monarch, and since it was the right of the community to give, (and, theoretically, to take away) assent to a king, who governed only



through power given by the community, so it was their right to choose which of their number it was who ruled during the absence of a king. The community, particularly its leaders the nobility, had a duty to protect the realm, its justice and integrity. When there was no king through whose authority they could do that, they had to elect those of their number who could best fulfil this duty for them.

Between the battle of Stirling Bridge and the election of the triple guardianship in July 1298, there are few official references to the guardian, Wallace. The style used by Moray and Wallace, "leaders of the army of the kingdom of Scotland", refers to the practical reality of their situation. They did at that point speak with the backing of the community, however<sup>14</sup>, showing that whilst their official election had not taken place, they were nevertheless the ones to whom authority had been delegated, in virtue of their military achievements. A new dimension was added in the style used by Wallace and Moray in their letters of protection to Hexham abbey<sup>15</sup>: "Andrew Moray and William Wallace, leaders of the army of the kingdom of Scotland, in the name of the most worthy prince, the lord John, by the grace of God illustrious King of Scots, by the consent of the community of the realm" (duces exercitus regni Scocie, nomine preclari principis domini Johannis dei gracia regis Scocie illustris, de consensu communitatis regni eiusdem). In this style there appeared, as well as the part played by the community of the realm, the added complication of a king. Despite Balliol's humiliating surrender to Edward I, and his resignation from the kingship, Wallace, apparently with the formal backing of the community, still recognised him as king. The Scots consistently

maintained that Balliol's abdication was neither legal nor binding because it had been made under duress.<sup>16</sup> The same basic style was used by Wallace after his formal election as guardian: "William Wallace, knight, guardian of the kingdom of Scotland and leader of its army, in the name of the most worthy prince, lord John, by the grace of God illustrious king of Scots with the consent of the community of that kingdom".<sup>17</sup> The same document stresses again the existence of the king and the 'consent and assent' of the magnates (who represented the community at large) with which the grant was made. This fuller style was also used by guardians after Wallace: in November 1299 Lamberton, Bruce and Comyn styled themselves 'guardians in King John's name, elected by the community'.<sup>18</sup> Most of the other references to the guardians merely style them "guardians of the kingdom of Scotland" or something similar.<sup>19</sup> The full style, including the king's name, is significant, however. That the Scots refused to accept that there was no king is of fundamental importance to the status accorded the guardians. This is emphasised by the seal which Wallace attached to his charter to Scrymgeour, which is described as "the common seal... of the kingdom of Scotland" (sigillum commune... regni Scocie), presumably implying that it was a new Great Seal, cast to replace that broken by Edward I in 1296.<sup>20</sup> It is surprising that this seal is quite unlike that used by the 1286 - 1291 guardians. Wallace's Great Seal bears the legend Johannes dei gracia Rex Scottorum around the image of the king equestrian, in armour bearing the royal insignia. On the other side, the same legend is found, with the image of the king enthroned in full royal regalia, heraldic shields on either side, one bearing the lion



rampant, the other his personal emblem.<sup>21</sup> This seal is identical in almost all respects to the second Great Seal used by Alexander III<sup>22</sup>, showing that in 1297 the chancery was poised to re-establish a full royal administration. That a finished seal could easily be produced, in direct line with the current fashion of seals used by the kings of Scots, shows an impressive degree of organisation. However, that the seal shows John himself is also important: it is a Great Seal of King John, being used to authorise the acts of his representative in the land, the guardian. The use of the full style and of the royal seal thus shows the guardian's position from the king's point of view. He, the king, was still in power, with full royal authority, wielded through the guardian since the political situation precluded his own presence in the kingdom. As the political situation became more hopeful, the styles of the guardians changed accordingly: it can be no coincidence that in 1297 the king's name was merely added in to the style of the guardians, whereas by 1301 documents were actually issued under John's name, the guardian merely witnessing the act with the simple wording "witnessed by John de Soulis, knight, guardian of our kingdom".<sup>23</sup> By 1301/02 hopes had risen for the restoration of the king, and the personal appointment of Soulis as John's direct representative may be indicative of a closer contact between the king and the community. With the new situation brought about by the appointment of Soulis, there may also have been a new seal. A description of the seal attached to Soulis' letter to Philip IV in February 1302<sup>24</sup> gives it on one side the seal of Soulis himself, as guardian, and on the other side the impression of King John, enthroned and bearing the regalia. The latter image is different in

style from that on the seal used by Wallace, perhaps indicating that Balliol was personally responsible for its manufacture, in France. It seems surprising that when the king was apparently closer to regaining his kingdom, his own Great Seal was replaced by a new one which stressed the place of the guardian; on the other hand, the naming of the guardian on the new seal may signify the closer relationship between king and guardian.<sup>25</sup> Like that of the 1286 - 1291 guardians, this seal was known as "the seal deputed for the government of of the kingdom of Scotland" (sigillum regimini regni Scotie deputatum).<sup>26</sup>

So, their styles, and the seals of the period 1297 - 1302, make two major points about the position of the guardians. Firstly, from the community's point of view, they were elected to fulfil the task of protection of the kingdom in the absence of a king to whom the community would normally give the necessary authority: the power of guardians, in that respect, was therefore equal to that of a king. Secondly, at no time did the Scots accept that there was no king: the guardians' style ran 'in the name of' the king, and their seal bore his image. Both from the community's point of view and from that of the king himself, the guardians were no more and no less than his representatives, bearing the authority to rule and carry on the realm's business on his behalf. Thus later kings recognised the acts of guardians as royal acts in their own right.<sup>27</sup> When the king's situation was strong enough to allow him to appoint his own representative, he did so, and the new situation was symbolised by a new seal and a new style. The royal authority carried by the guardians' documents is emphasised by the Wallace charter of March



1298, which granted land 'pertaining to the crown' (ad partem regiam spectare). Even the king could not fully alienate crown lands or any right pertaining to the kingdom itself, and thus a guardian, without the full authority of the king, could not have made such a grant. It was probably for this reason - for further assurance of his right to make the donation - that Wallace included in the document the extra "consent and assent of the magnates" with which the grant was made.

The seal used by the guardians of 1286 - 1291 allows the discussion to be taken one step further. That seal truly reflected a new political situation by being totally unlike any other seal used for government in Scotland. It bore no monarch's name or image, but replaced it with a striking representation of St. Andrew on the cross, with the legend Andrea Scotis dux esto compatriotis. On the reverse, instead of the monarch equestrian, were simply the royal arms, the lion rampant, with the legend sigillum Scocie deputatum regimini regni.<sup>28</sup> This seal is highly significant for the position accorded the guardians. As the only tangible symbol of their authority, its design must have been the subject of careful consideration. The lion rampant, which immediately brings to mind the captain of Stirling castle who told Edward I that he held his castle 'of the lion',<sup>29</sup> is the symbol of Scottish royalty. No monarch's image could be used, since in the period following Alexander III's death no monarch had sat upon the stone at Scone for inauguration. When the seal was made, it was not even certain who the monarch was. Thus, to represent 'the king whomsoever he may be', the royal arms were used. The name of the seal made it plain that its use lent royal authority to those to whom the community had

deputed it. For the same reason, that no monarch had been inaugurated, none could be named, and the best that could be done was thus to symbolise an anonymous royal authority deputed to the bearers of the seal. The overt reference to the idea of nationality on the other side of the seal is also striking: St. Andrew's image was used to symbolise the community of the realm in its fulness; it was an appeal to the 'patriot Scots' to act in unity under their guiding Christian faith, in order to uphold their nation throughout political difficulty. In this image the theory of the 'community of the realm' reached its zenith.

This, then, was a royal seal, but above all it was a seal of the community of Scotland: the authority which it bore was royal authority, but it was borne when there was no inaugurated monarch. Within a short time of its having been made, the Scots knew who the monarch was, and had she been inaugurated a new seal would have been made accordingly:

"the seal of the kingdom which at present is valid after the death of the king shall be held valid until the said queen shall have come into her kingdom and shall have performed to God and to the Church and to the Community of the realm, in the place specially ordained for the purpose, that which is to be done in accordance with the laws and customs of the said realm. And then there shall be made a new seal, bearing the customary arms and legend of the king of Scotland only".<sup>30</sup>

The new seal, of course, was never made, since by the end of 1290 Margaret was dead and the Scots were again in the position of not knowing who was the rightful king. The guardians' seal therefore continued in use until the appointment of King John in 1292. It was used by King Edward and his ministers throughout 1291 and 1292<sup>31</sup>, and was finally broken on the day before Balliol did homage to Edward I



for his kingdom.<sup>32</sup> Again, there are two points of major significance to be drawn from this seal. Firstly, the position of the community was paramount: it was the community who assented to the wielding of royal power, whether by a king or by a guardian. The quotation from the treaty of Birgham emphasises this: only after performing "that which is to be done" before the community could Margaret have been issued with a seal of her own - her key to sovereign power.

The community, in this context, could not in practical terms mean the entire community of 'patriot Scots': the whole Scottish nation could not gather at Scone for an inauguration ceremony. The community, therefore, was represented by those at the top end of society: those barons, nobles and prelates into whose hands the organisation of the kingdom's business fell. Even they, however, had to have a corporate body through which to decide on and make known their common will: that body was parliament.<sup>33</sup> Only in parliament could a decision be taken concerning such a vital matter as the rule of the kingdom. The delegation of that authority which stemmed from the very existence of the nation of Scotland could not be entrusted to a few men at an unofficial meeting. To elect a guardian, as to inaugurate a king, a properly constituted gathering of the leaders of the community had to be held. Thus the committee of six were elected in parliament at Scone in 1286, and resigned their authority in a parliament at Norham in 1291; Wallace was elected at a parliament on or before 29 March 1298; Bruce and Comyn were elected at a parliament, of which no record remains, probably in July 1298; the meeting in the forest of Selkirk, obviously pre-arranged, must be seen as a parliament; Umphraville replaced Bruce as guardian in a

parliament in May 1300; and Soulis was accepted as guardian at a parliament held between December 1300 and May 1301. The community's will, as expressed in parliament, decided to whom the royal authority of Scotland would be given. It was stated above that the holding of parliaments was a sign of sovereignty wielded by those who called them. That statement is not contradicted by the apparent ability of the community to hold parliaments when there was neither king nor guardian, for, in such a situation, the rule and sovereignty of the state lay directly with the community itself, which could therefore hold parliaments which bore as much authority as any held by a king.

The precise nature of this care-taker authority must be examined. How was it possible for the community to delegate its authority, to be used on behalf of the king, when there was no king? "The king is dead: long live the king" is an old adage, describing a much older idea. In Scotland as elsewhere, the idea of a kingdom without a king was unthinkable. Thus, when the king died, some element of royalty survived him. To that extent, there was always a king, even although his identity may at times have been obscure, or he may not always have been inaugurated. The documents which refer to the 'King of Scotland, whomsoever he may be' emphasise this point. The royal power and authority, the crown, the throne, the regalia, which one king laid down at the end of his life, was still there to be taken up by his successor: the kingdom and all that pertained to it and its government did not in any sense belong to the king, but was entrusted to him to defend and maintain, so that it flourished and remained undiminished for its next keeper to inherit. It was this idea which inspired all the guardians in their attempts to



defend the independence of Scotland: the rights and liberties which it was their duty to guard were somehow embodied in the very idea of the kingdom and the kingship. This is the second point of importance about the 1286 - 1291 guardians' seal: the lion rampant symbolised the continuous aspect of the kingship, that element of royalty which never died.

Such feeling of continuity found expression in the concept of the 'royal dignity'. The rights which a king claimed in ruling his land were not his own personal rights: they pertained to the royal dignity. The customs and laws of the kingdom were part of this royal dignity, and so when there was no king, just as under normal royal rule, they could not be removed or diminished. The throne, the crown, the sceptre, the royal coat of arms, were all mere symbols of the royal dignity, and the revered inauguration ceremony itself was no more than the bestowal of the royal dignity on the person who had been accepted as king. Thus the guardians held their power, through election by the community, of the royal dignity of the realm. When there was no inaugurated king they held their authority directly of the royal dignity itself. If there was an inaugurated king, as in the years after 1296, then the guardians held their power, through the election of the community, on behalf of the king who had been invested with the royal dignity. Never in this period did the Scots believe that their kingdom had died. The Scots governed themselves through bestowal of the royal dignity on those whom they considered most fit to bear it. They never accepted Balliol's deposition: he was their king, and so in his name the power of the royal dignity was wielded by successive guardians.

References to the royal dignity are not unusual. Prior to 1286 there are few in the Scottish records, but thereafter, both in times of interregnum and when the throne was occupied, the concept is frequently referred to. The same idea also occurs regularly in English records, and in those of, for example, France<sup>34</sup>, the Empire<sup>35</sup>, and even the papacy.<sup>36</sup> It was an idea common to all Europe at this time; it is too often assumed, with too little evidence, that Scotland, being far to the north of the centres of European affairs, was permanently backward in matters cultural, philosophical, political and ecclesiastical. With respect at least to the political concepts which were being developed at the end of the thirteenth century, Scotland was most certainly not behind the times. Indeed, perhaps because of the goading effect of dynastic and political crisis, the concept of nationality appears to have been rather more advanced in Scotland than in most other states at that time.

The idea of the royal dignity, or the wholeness of the political entity that was the state, is to be found under various names, the contexts in which they are found making it clear that they all refer to the same concept. Thus, whilst it was the "royal dignity" (regia dignitas) which was surrendered up to King Edward by John Balliol in 1296<sup>37</sup>, John's charter of land to one Donald le fitz Kan had been in diminution of "the crown of Scotland".<sup>38</sup> Particularly with regard to land, goods and rights, the idea of the 'crown' is very common. Robert I, in 1323 or 1324, stated that certain meal and money "pertains to our crown" (coronam nostram)<sup>39</sup>, and Regiam Majestatem refers to criminal cases which "pertain to the crown".<sup>40</sup> The English king could not submit "the rights of his crown" (jura corone sue) to



the pope for judgement<sup>41</sup>, and the dowry to be paid by the Scots for the marriage of Balliol's son to the French king's niece in the treaty of Paris was to be paid from lands not pertaining to the "royal crown" (coronam regiam).<sup>42</sup> However, similar references occur where the alternative word dignitas is used. There are many references to land being held of the royal dignity<sup>43</sup>, as opposed to the crown. When Simon Fraser did damage to the lands of Reres in Fife, MacDuff claimed that his action was "in prejudice of the royal dignity of the kingdom of Scotland" (in regie dignitatis regni Scotie prejudicium)<sup>44</sup>; probably from the period 1291 - 1292 there is a reference to a right of jurisdiction "which pertains to the royal dignity", and, from the reign of Balliol, a document states that the interference of church courts in civil cases was "in prejudice of the royal dignity".<sup>45</sup> The use of the phrase 'royal dignity' in a very broad sense is common, so that if an act is against the royal dignity, then it is prejudicial to everything that the idea of an independent and sovereign kingdom and kingship stands for: all that each king holds and protects in virtue of the power given to him by the community of the realm. A letter of Robert I or David II pardons an unknown man for his acts of war "against us and our royal dignity" (contra nos aut regiam nostram dignitatem).<sup>46</sup> The 1286 breve summoning the host calls for the provision of service owed to the royal dignity for the defence of the "kingdom, the royal dignity, and their freedom".<sup>47</sup> When gaining the position of king, one succeeded to the honour of "the royal dignity and the rule of the realm" (regiae dignitatis et regni regimini)<sup>48</sup>, and, specifically, Macbeth was held by a fourteenth-century historian to have taken up the

"kingly dignity" (regali dignitate).<sup>49</sup> David I, through his good rule, kept the "royal dignity" intact<sup>50</sup>, and the treaty of Birgham made provision regarding the relics and charters concerning the "royal dignity" of Scotland.<sup>51</sup> In similar vein, it was claimed by one of the competitors in 1291 - 1292 that one could not legally dismember the crown: "one must hold the crown entire" (en doit tenir la corone entiere).<sup>52</sup> The English nobles wrote in February 1301 that for their king to send procurators to the papal curia to plead his case concerning Scotland would be "in manifest disinheritation of his crown"<sup>53</sup>, and in the same month the English king summoned troops to meet him at Berwick to defend "the honour of the crown".<sup>54</sup> Again in England, King Edward felt that the Charter of the Forests and Magna Carta were prejudicial to the "crown and royalty of the king" (coronae et regaliae regiae)<sup>55</sup>, whereas the barons felt that the behaviour of the unpopular favourites of Edward II was "against the public good and in detriment of the crown" (contra utilitatem rei publicae et in detrimentum coronae). When the same nobles despoiled the land and castles of one of those favourites, they claimed to do so "for the crown and right of the kingdom of England" (pro corona et jure regni Angliae). In the year of his deposition, Edward II was called to a parliament "to perform and enact with the lieges for the crown of England what ought to be done", and in that parliament he was removed from "all royal power and dignity" (omni potestate regia et dignitate).<sup>56</sup>

These examples serve to show that the terms regia dignitas and corona were largely interchangeable. If any distinction can be drawn, it is probably that corona tends to be found more often in



reference to 'the king with the realm', whereas dignitas tends to be less personal, meaning the position, rights and duties which the king holds through the power accorded him, without specific reference to the king himself. The distinction cannot always be drawn, but it is nevertheless true that the idea of dignitas is more often to be found without reference to any particular king, or when the kingdom is in a state of interregnum. Despite these connotational differences, however, the two terms clearly refer to the same phenomenon, which is also to be found, although less frequently, expressed in other ways, such as 'the royalty'<sup>57</sup>, 'the honour of the crown'<sup>58</sup>, 'royal honour'<sup>59</sup>, 'regality'<sup>60</sup>, 'the honour of the kingdom'<sup>61</sup>, and, once, 'the lion'<sup>62</sup>. These all appear to carry the same meaning, again perhaps with slight connotational differences, very possibly dependent on the contexts in which they, coincidentally, are found.

The constitutional position which we ascribe to the guardians of Scotland rests heavily upon the significance which we attach to the idea of the royal dignity of the realm: continuity in the monarchy was a particularly important ideal.<sup>63</sup> However, Fordun, whose comments on kingship and rule are usually fairly apt, specifically states that "no king was ever wont to reign in Scotland unless he had first, on receiving the name of king, sat upon this stone at Scone"<sup>64</sup>: the king could not bear rule or authority in or over the kingdom until he had been accepted to do so by the community, and had been given that right in the ceremony of inauguration on the Moot Hill at Scone. His right to rule in Scotland was ther<sup>e</sup>fore two-fold: his lineage gave him the right to offer himself as king, but the right actually to reign as king was given to him by the people whom

he would govern. In the inauguration ceremony the royal dignity of the realm was bestowed upon the king, which allowed him to use the fruits and pertinents of the kingdom and the power which the dignity's authority gave him, to further the interests of the people and the land. That dignity was not in any sense his personal possession: it was his only to use for the period of his reign, in order to protect the kingdom and its people, and it had to be preserved intact for inheritance by his successor. Normally, by the thirteenth century, that successor would be his eldest son or nearest personal heir, but the dignity itself was passed on not by inheritance, but through bestowal by the community of the realm.

This distinction between the personal rights and possessions of the monarch and those of the kingdom which he ruled explains the position of the guardians. Unless the rule of the kingdom and the protection of the royal dignity could be temporarily delegated to one other than a monarch, then between the death of one king and the inauguration of his successor, there was, in effect, no government, no law. Normally, when this lapse was very short, such delegation was deemed unnecessary, and the dignity was upheld, in theory, by the community itself. However, in 1286 it was clear that some length of time must elapse before the next monarch could be inaugurated, and the community therefore nominated a committee to whom it entrusted the use and care of the royal dignity. Royal government was in this way maintained, although there was no king present in person to supervise it. Thus the risings which took place in 1286 were not deemed to be against Margaret's authority, or against the peace of any king, because no 'king's peace' had been proclaimed. Those



rebellions were ag<sup>a</sup>inst the regia dignitas.<sup>65</sup> By the end of 1286 it was known that the monarch would be the 'Maid of Norway', but until she had been inaugurated the guardians could not actually reign in her name. She was the queen, but did not yet bear the dignity, and therefore the rule, of the kingdom: the guardians' rule thus continued not specifically in her name, but in that of the royal dignity.<sup>66</sup>

Once Balliol had been inaugurated as King John, he held and wielded the dignity of the realm. Notwithstanding the fact that the arguments with which he, Bruce and the others had disputed the succession were principally based on the law of inheritance, the elective element in the succession was still present; the royal dignity was bestowed upon Balliol on 30 November 1292, but it was freely given, and, in theory at least, could be as freely taken away: it appears to have been at least partially removed in 1295, with the election of the twelve peers. In 1320 the Scots barons wrote to the pope, pleading for recognition of their king. In that letter they made two apparently contradictory statements, that Bruce gained the throne as his 'heritage', through 'rightful succession', and that, having given their assent to his rule, if he chose to subject Scotland to the English the community of the realm would remove that assent and "strive to thrust him out forthwith as our enemy and the subverter of right".<sup>67</sup> This apparent mixture of hereditary succession and election need imply no contradiction. The hereditary part of the succession system is well documented, and its practical supremacy is made clear by the fact that since the twelfth century most Scottish kings had succeeded their fathers to the throne. The

conduct of the Great Cause itself provided a fine example of the predominance of the hereditary system. However, that this was not the only criterion involved in a Scottish king's accession must be recognised. Probably dating from pre-Norman times, when the king was chosen from the derb fine ("proven kindred"), the group of those who were sufficiently close in degree to a royal ancestor to be qualified to claim the throne for themselves<sup>68</sup>, there was a strong element of election in the Scottish kingship: a king had to be accepted by the community. By the thirteenth century this was to some extent nominal, in practice meaning that as a matter of course the community's assent was given to the one whom heredity named the rightful king. But nonetheless, the feeling that the dignity was freely bestowed by the community was still strong. Their elevation of the man in the ceremony at Scone, in which they, in effect, put into his hands the reins of justice, was vital. Their acknowledgement, and his promise, of his ability and willingness to fulfil the kingly duties were integral parts of his right to be a king. The power of the kingdom lay not only in the king, but also, and equally, in the community who assented to his rule. That some elective element in the succession system could effectively be re-asserted is made clear, for instance, by the passage referred to above from the Declaration of Arbroath, and by the 'Appeal of the Seven Earls', which refers to the right of the 'Seven Earls' and the community to 'make' the king, accusing Fraser and Comyn of attempting to elevate Balliol to the throne "and to confer on him the rights and honours which go with the rule of the kingdom". More strikingly, the declaration in favour of Robert I made at a supposed council of the



Scottish clergy in 1310<sup>69</sup>, states that the people of Scotland, oppressed by English tyranny,

"agreed, by divine prompting, on Lord Robert who now is king, in whom reside and remain uncorrupted, in the general opinion, the rights of his father and grandfather to the kingdom; and with their knowledge and approval he was received as king... By their authority he was set over the realm, and formally established as king of Scots, and with him the faithful people of the realm wish to live and die, as with one who, by right of birth and by endowment with other cardinal virtues, is fit to rule, and worthy of the name of king and of the honour of a realm...".

This is a very clear statement of the ideas of mixed election and heredity which frequently appear in other similar documents of the period. These are all, it must be admitted, propaganda documents, which to a varying extent superimpose a highly subjective, not to say distorted, idealised view of events on historical truth. However, it is significant that the authors of these pieces felt that it would strengthen their case to include such ideas: if the ideas expressed in the documents had been remote from those currently accepted, then they would have had no propagandist value. That the idea of election is consistently used in Scottish propaganda from 1290 to 1321 must imply that it was a concept which was meaningful both to those who wrote the documents, and to those who were intended to read them. The Scottish succession system was a mixture of heredity and election: through the normal process of heredity it became clear to whom the dignity should, under normal circumstances, pass; the assent of the community was then given to that person, and could, if necessary, be removed and bestowed upon another, should the original holder fail to use and protect it properly.

After the conquest of 1296, the rising in the following year gave the Scots an opportunity to re-assert the dignity of Scotland. There was, however, an inaugurated king. To accept his deposition was to accept the right of the English crown to dictate the terms on which the Scottish crown was held - in effect, to admit English overlordship. If the royal dignity was indeed independent, then no foreign ruler could lawfully force a Scottish king to abdicate. King John's rule, irrespective of how it had been carried out, was still in being, because the community had not formally removed the dignity from him. He was, however, the prisoner of the English, and could not rule the land. Guardians had thus to be found to bear the royal dignity on his behalf. Wallace and his successors therefore ruled with the royal dignity in the name of, and on behalf of, King John. The most accurate description of them is to be found in a document of 1298 x 1302<sup>70</sup>, in which they are called custodes loco regis. They were guardians of the kingdom, of the royal dignity, 'in place of the king'.

Thus the place of the guardians in the government of Scotland at the turn of the thirteenth and fourteenth centuries is made clear. Their duty was to protect the kingdom, its royal dignity, and the rights and liberties of all its inhabitants. In order to do this they were invested with full royal power and authority, given to them through election and appointment by the community in its representative assembly, parliament. Their rule was as authoritative as that of any monarch, being based upon the royal dignity itself. The use of that authority can be seen for example, in their conducting negotiations on matters touching on the status of the



realm, in their holding of parliaments, and, latterly, in their issuing documents under John's own name. They were elected to bear the royal authority during the absence of the king, or during his incapacity: the guardians were the custodians of the royal dignity for the king, whomsoever or wheresoever he or she might be.

The Scots were not without a head in 1291. Neither were they helpless and unable to defend themselves. Their self-portrait of a weak and defenceless people was sheer propaganda, designed to support the diplomatic policy of a well-established government, a policy which was aimed at restoring normality in the Scottish constitutional set-up. However, government in the name of an absent king, even with the firm theoretical basis of the royal dignity, cannot have been as strong, as well-received, or as easy as the more normal rule of a king. It must, therefore, have been with some relief that those who had no personal or dynastic axe to grind heard the news of the inauguration of a king at Scone on 25 and 27 March 1306.

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NOTES

- 1) Chron. Fordun I, p.319 (II, p.313).
- 2) A.P.S. I, pp.441-42; Stevenson, Documents I, pp.162-73.
- 3) A.P.S. I, p.453.
- 4) Ibid., p.454.
- 5) See Sayles in S.H.R. 24, pp.245-50.
- 6) A.P.S. I, p.454.
- 7) See below, pp.264-65.
- 8) Stevenson, Wallace Docs., p.191.
- 9) Raine, North Durham, appendix, pp.50-51, no.232.
- 10) Stevenson, Documents I, pp.24, 201-202 (October 1286 and October 1290); and, e.g., Aberdeen Burgh Chrs., pp.289-90 (May 1287), 290-91 (February 1290); S.R.O. Ms.RH5/226/4 (May 1289).
- 11) Stevenson, Documents I, p.126.
- 12) Foedera I, pp.713-14.
- 13) E.g. A.P.S. I, pp.441-42 (March 1290).
- 14) Letter to Lübeck and Hamburg (Stevenson, Wallace Docs., p.159).
- 15) Stones, Documents, pp.[77-78].
- 16) E.g. Bisset's Processus, which goes even further, and claims that the letters of abdication were forged.
- 17) A.P.S. I, p.453.
- 18) Ibid., p.454.
- 19) Highland Papers II, p.131 (December 1298); A.P.S. I, p.454 (February 1302); Ibid., pp.454-55 (May 1303).
- 20) See below, pp.263-64, n.32.



- 21) Facsimile in A.P.S. I, facing p.453, and cf. Cal. Docs. Scot. II, p.538, no.25.
- 22) See, e.g., the well-preserved seal on S.R.O. Ms. GD55/324.
- 23) It is also noteworthy that in this period English documents twice refer to the 'guardian of Scotland', in contrast with their previous refusal to acknowledge the Scots guardians after 1296 (Cal. Docs. Scot. II, no.1121; S.H.R. 24, p.246).
- 24) W. de G. Birch, A History of Scottish Seals I, p.37.
- 25) It is interesting to note, however, that similar seals may have been used by Wallace and Moray before Wallace's election as guardian. Were these 'interim seals', to lend them some authority as leaders? (See Barrow, Robert Bruce, p.129, n.3).
- 26) A.P.S. I, p.454.
- 27) See Bruce's confirmations of Wallace's charter to Scrymgeour, first as guardian (Highland Papers II, p.131), and again as king (Standard-Bearer Case, p.410).
- 28) For full description and photographs, see Birch, op.cit. I, pp.31-33, 14, 15.
- 29) Scalachronica (Maxwell), p.25.
- 30) Treaty of Birgham (Stevenson, Documents II, p.169).
- 31) See, e.g., Rot. Scot. I, p.4. Six out of nine entries on this page, all letters under Edward's own name, are given under this seal. It is remarkable to find Edward I using, in this period, a seal which so flagrantly symbolised Scotland's resistance to domination.
- 32) Stones and Simpson, Edward I II, pp.252-53.
- 33) A.A.M. Duncan, Early Parliaments, p.38: "Parliament was to be the guardian of the status of the kingdom and its people: in 1290 parliament and no other assembly was seen as the community in political action".
- 34) Stones and Simpson, Edward I II, p.173: "The Apostle of Rome deposed the king of France from his royal dignity".

- 35) Scalachronica (Maxwell), p.40: the Emperor Henry was "worthy of the dignity of his three crowns", and (p.41) "the dignity of Emperor".
- 36) Foedera I, p.942.
- 37) Ibid., p.909.
- 38) Cal. Docs. Scot. II, nos.1664, 1712.
- 39) Formulary E, no.115.
- 40) Regiam Maj., pp.59-60.
- 41) Stones, Documents, p.[93].
- 42) A.P.S. I, p.452.
- 43) E.g., Rot. Scot. I, pp.8,11,13,15.
- 44) Ibid., p.20.
- 45) Formulary E, nos. 4,5; cf. Ibid., nos.10,13, which refer to the rights of the regia dignitas.
- 46) Ibid., no.50.
- 47) Ibid., no.89.
- 48) Chron. Fordun I, p.337 (II, p.330).
- 49) Ibid. I, p.188 (II, p.180).
- 50) Ibid. I, p.251 (II, p.244).
- 51) Stevenson, Documents I, pp.162-73.
- 52) Stones and Simpson, Edward I II, p.187.
- 53) Foedera I, p.926.
- 54) Ibid., p.928.
- 55) Chron. Meaux II, p.129.
- 56) Ibid., p.326; Chron. Lanercost, p.241 (trans. Maxwell, p.229); Ibid., p.257 (trans. Maxwell, p.254); Chron. Meaux II, p.353.
- 57) Foedera I, pp.974-75.
- 58) Ibid., p.928.



- 59) Chron. Lanercost, p.205 (trans. Maxwell, p.178).
- 60) Scalachronica (Maxwell), p.23.
- 61) A.P.S. I, p.460 (trans. Dickinson, Donaldson and Milne, A Source Book of Scottish History I, p.145).
- 62) Scalachronica (Maxwell), p.25.
- 63) Chron. Fordun I, p.293 (II, p.289): "a country without a king was, beyond a doubt, like a ship amid the waves of the sea without rower or steersman".
- 64) Ibid. I, p.294 (II, p.290).
- 65) Formulary E, no.89.
- 66) See Appendix 2.
- 67) A.P.S. I, pp.474-75 (trans. Dickinson, Donaldson and Milne, op.cit. I, pp.154-58).
- 68) It should be noted that this system was itself a mixture of heredity and election.
- 69) Stones, Documents pp.[140-43].
- 70) Raine, North Durham, appendix, pp.50-51, no.232. The date given in the Handlist of the Acts of Alexander III, the Guardians and John (no.354) is probably incorrect. The reference to the 'king's guardians' make it unlikely to be ante 1288. In that period, the reference would more probably have been to the 'dignity' than to the 'king'. The king referred to must therefore be John, and the document must date from a post-1296 period of multiple guardianship, i.e. July 1298 x August 1302, and probably before May 1301, later than which date no other joint documents are extant.

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CHAPTER SEVENTHE REIGN OF ROBERT I1: THE WAR WITH ENGLAND, 1306 - 1314

Fordun wrote of Alexander III that "all the time he lived upon earth security reigned in steadfastness of peace and quiet".<sup>1</sup> Indeed, all of those kings whom Fordun admired are given credit by him for promoting peace: Malcolm III "maintained the security of peace and fellowship"; David I brought about "a peace until then unknown"; William the Lion was "the friend of God, the lion of justice, the prince of peace"; Robert Bruce, in turning down Edward I's offer of the kingdom in return for subjection, claimed that its previous kings had all kept it free from thralldom "in security of peace". On the other hand, Edward I of England is censured: "this king stirred up war as soon as he had become a knight, and lashed the English with awful scourgings; he troubled the whole world by his wickedness, and roused it by his cruelty". Fordun has little to say regarding the character of Robert I, of the effects of whose reign he clearly approved, merely stating that "he was, beyond all living men of his day, a valiant knight". Apparently, the protracted warfare of Bruce's reign did not completely commend the king to Fordun.<sup>2</sup>

The valour, strength, and warlike ability of medieval kings was undoubtedly important: without these qualities they were not fit to rule. However, peace was an omnipresent ideal. To bring peace to his realm was probably the most fundamental duty of a king. Dante stated that



"it is in the quietude or tranquillity of peace that mankind finds the best conditions for fulfilling its proper task... Hence it is clear that universal peace is the most excellent means of securing our happiness".

He then comes to the conclusion that in order to achieve that end, "every kingdom... needs to have a king to rule over and govern it".<sup>3</sup> Aquinas also saw peace as the raison d'être of all just government: "the most important task for the ruler of any community is the establishment of peaceful unity".<sup>4</sup>

It was not only theorists and chroniclers who stressed the necessity of peace, however: kings and their subjects were as concerned with that ideal as any. Edward I came to Norham in 1291 in order to "restore settled peace to the kingdom of Scotland".<sup>5</sup> The same king accused the Scots, in his letter to the pope in 1301, of being "foes of peace and sons of rebellion".<sup>6</sup> Those appointed to govern Scotland in 1305 had to swear to "advise what you think will be able to lead to the keeping of the peace and quiet of the land".<sup>7</sup> The Scots, in the Declaration of Arbroath, stated that their only desire was "to live at peace"<sup>8</sup>, and the Treaty of Birgham was made "after due consideration of the peace and tranquillity of both kingdoms".<sup>9</sup> Even in the every-day administration of the realm, the idea of peace was all-pervasive: how many times must a chancery clerk have written the words "the king's peace"?

This obsession with peace was perhaps a consequence of the almost endemic warfare which afflicted medieval Europe. Few areas were unaffected by war, and certainly there was no question of real peace in the relations of England and Scotland between 1296 and 1328. That Scotland's best known and probably most universally acclaimed monarch should wage war for almost his entire reign, would not appear

to be consistent with the approved view that a 'good king' ruled in peace. The reign of Edward I, perhaps the zenith of medieval kingship in England, saw almost incessant warfare. Alexander III, who reigned in "steadfastness of peace", went to war against Norway. Most, if not all, medieval kings, good or bad, went to war. This apparent inconsistency in the concept of how kingship worked - an acceptance, or even open approval of warfare in a time when peace-keeping purported to be the most fundamental ideal and duty of the king - is an important element in the study of the medieval kingdom. In order to understand the king's position, and to establish the theoretical status both of his kingdom and of his monarchy, it is necessary to study the conduct and justification of warfare.

Robert Bruce, when he emerged from his inauguration ceremonies at Scone on 25 and 27 March 1306 as King Robert I, was already at war. Not only was he at war with Edward I, the overlord of Scotland against whom he had rebelled, breaking his sworn fealty, but he also faced the opposition of a large proportion of his own people. More than an inauguration ceremony of arguable validity was required to persuade the aggrieved kin of the murdered John Comyn, and those who had for ten years kept alive the notion of John Balliol's rightful kingship, that Bruce was after all the legitimate king now making his stand for the common good of the realm.

Even before his inauguration, probably in order to gather enough support to make it possible, Bruce had taken the castles of Dumfries, Ayr, Dalswinton and Tibbers, and held Loch Doon and probably



Dunaverty. His supporters also obtained for him the castle of Rothesay.<sup>10</sup> He had made war in Galloway, and had noble supporters active on his behalf in much of western Scotland. Even in the few weeks after Comyn's murder, it was clear that Bruce was attempting "to seize the realm of Scotland". The English were preparing to defend all their strongholds in southern Scotland, and already there was talk of Bruce "aiming to secure his heritage by all the means that he could". Apparently, he had sworn to defend himself against King Edward "with the longest stick that he had".<sup>11</sup>

In this early phase of the new war, it is important to look at Bruce's tactics. He clearly regarded himself, even in the hours following Comyn's murder, as King of Scots<sup>12</sup>, and thus took upon himself the task of defending his realm against the hostile foreign incursion which would inevitably come from the south. To meet this threat, he needed a firm base, and manpower. By immediately taking control of some strongholds, he gained both. Some noble support must obviously have been agreed in advance: the plot to take the kingdom, whether in his or in Comyn's name, was bound to lead to war. However, the gentry of the land (and therefore the peasantry) would only follow a lord who appeared to have considerable standing in the realm. Thus the prestige of holding an area of the kingdom under his control was essential to Bruce's quest for mass support. It may be noted that the English in control of all parts of Scotland panicked at the news of the rebellion, but in its early weeks Bruce restricted his activities, and those of his supporters, to the relatively limited area of Galloway, Clydesdale and Kintyre. This was doubtless an attempt to consolidate his position in one area, in order that he

had a block of support upon which to depend, and from which to direct his campaigns. This particular area was probably chosen because of its long associations with the Bruce family: he could count on support here. However, there were also strategic considerations. To spread his power over Lothian, or even north of the Forth, would make defence of this base more difficult. The castles of Dumfries, Tibbers and Dalswinton were taken in order to guard against a landward approach, and Dunaverty, Ayr and Rothesay clearly defended the sea approaches. The attempts to gain control of both Dumbarton and Inverkip, though unsuccessful, also show this need to gain security from the west, both to guard against English naval power, and to defend the trade and supply routes to Ireland and the Western Isles.

In the short space of time available to him after Comyn's murder, Bruce advanced a considerable way towards his goal of securing a safe area in south-west Scotland. However, if King Edward's correspondent<sup>13</sup> is to be believed, Bruce's success in gaining support was limited: the people of Galloway, at any rate, refused to rise with him. Their reluctance is perhaps less than surprising, since Galloway was Balliol land, and the lords of Galloway would be more than a little suspicious of this Bruce king. Nevertheless, Edward I was sure enough of Bruce's power in Galloway to order his ships carrying victuals from Ireland for his expedition to Scotland to keep to the high seas, lest any go ashore in Galloway.<sup>14</sup>

Speed was of the essence to Bruce, who was well aware of the significance of his actions, and of the response they would attract.



He was in contact with the English commanders in southern Scotland some time before his inauguration<sup>15</sup>, and doubtless knew of the urgent preparations for a campaign ordered by Edward I as early as 1 March, levying troops to be ready to go against Bruce from Berwick and Carlisle, and ships from Skinburness, by Ascension day (12 May).<sup>16</sup> To combat an English royal force, Bruce had to have support, and therefore also a substantial claim to be fighting for a just cause. His absolution from the crime committed in Dumfries, his oath to preserve the rights and liberties of the Scottish church<sup>17</sup> (surely almost a 'pre-inauguration oath', to guarantee some vital ecclesiastical support), and the hurried inauguration ceremony itself were thus means of gaining credibility. Although it was a style he rarely used, Edward I regarded himself as the rightful king of Scots<sup>18</sup>, and if Bruce was to claim any justification of his position, and to combat the charges of rebellion and treason laid against him, he required a framework of legality upon which to base his case. Once elevated to the kingship by the community in as near the traditional manner as the extraordinary circumstances would allow, he could claim, as the true droiturel roi, to be fighting for the liberty of the realm against a usurper and tyrant.

The inauguration itself caused little delay to the urgent military action, and Bruce carried on his initial policy of seeking support and winning castles, to give him a foothold in the kingdom. If he could overcome some of the opposition within Scotland itself before having to face the rapidly advancing English army, defence of the kingdom would be more possible. He may have returned to the south-west to strengthen his hold there<sup>19</sup>, and he certainly sojourned

in central Scotland, attempting to bring reluctant or recalcitrant barons to heel.<sup>20</sup> Unfortunately, the most detailed description of Bruce's actions during the two months following the inauguration ceremony is Guisborough's, a surprisingly laudatory, but brief, comment that Bruce "took homages and wrought great wonders", gathered a copious army, and marched through the land until he came to Perth.<sup>21</sup>

By early June all the action was centred in the Perth area. The English king's forces, under Aymer de Valence, who had been made Edward's lieutenant in Scotland<sup>22</sup>, were secure in Perth.<sup>23</sup> These forces were persuasive enough to have compelled Bishop Lamberton, one of Bruce's most influential supporters, to sue for peace (although he apparently reneged on the agreement and continued to fight for Bruce until captured at Methven).<sup>24</sup> The same force captured Bruce's other main clerical supporter, Bishop Wishart of Glasgow. Both bishops ended up in English prisons, where they remained for some years.<sup>25</sup> Before midsummer<sup>26</sup>, even before King Edward had left England to join his expedition in Scotland, Valence and his force had put Bruce to flight. Hindsight might suggest that Bruce's decision to challenge Valence in open battle was foolhardy. However, given Bruce's situation, it was probably tactically sound. Although his army was small, so, at that stage, was the opposition. Guisborough gives Valence command over three hundred men, and states that Bruce had "a great multitude".<sup>27</sup> The chronicle of Meaux states that seven thousand of Bruce's men died at Methven.<sup>28</sup> Undoubtedly a gross exaggeration, this figure nevertheless supports Guisborough's contention that Bruce's forces outnumbered those of Valence. The



Scottish sources tell a different tale: Fordun does not specify the size of Bruce's army, but gives Valence "a great force".<sup>29</sup> Barbour agrees with this: Bruce had a small number of men, whilst Valence had an army "with great chivalry".<sup>30</sup> These opposing accounts, without doubt concocted in order to emphasise the achievement, or explain the failure, of the writers' respective heroes, probably in fact indicates that in this, the first skirmish of the war, the two sides had roughly equivalent forces. Neither could have been very large, and Bruce's challenge to Valence may be seen as an attempt to weaken the English hold on Scotland, and thereby to gain himself more standing and support, before he had to face the might of Edward I. A quick, incisive victory for the new king would in the short term have seriously weakened the English hold on central Scotland. Bruce would have gained the town of Perth, and hence would have established a useful trading post on the east coast, and deprived the English of one of their most heavily used supply ports, an important point when the devastation which still prevailed in southern Scotland is borne in mind.<sup>31</sup> How long this advantage could have been held in the face of Edward I's army is a moot point (although Bruce, as he proved on many subsequent occasions, was under no compulsion to meet that army in a pitched battle), but nevertheless a victory at Methven would undoubtedly have given Bruce an advantage in terms of prestige and resources, which would in turn have made the English recapture of Scotland all the more difficult.

However, no matter how sound Bruce's strategy in forcing the battle, he was outwitted by Valence, whose surprise attack on the Scottish camp won the day. After the battle, Bruce and his remaining

supporters headed for the safety of the mountains. Travelling westwards, he met his second defeat at the hands of John Macdougall of Argyll, for long a staunch supporter of the English king, at Dal Righ near Tyndrum.<sup>32</sup>

Why Bruce took this route from Methven is not altogether clear. A more obvious strategy might have been to fall back on the relative safety of the south-west, where he still held strongholds, and could have rebuilt his force in a state of some security. One explanation of his journey westwards is prompted by the fact that most chroniclers ignore the second battle, and merely state that Bruce fled from Methven to Kintyre.<sup>33</sup> This suggests that Bruce's journey to Strathfillan was in itself a flight to Kintyre, to Dunaverty. Having been shattered at Methven, his force was insufficient for him to continue the struggle, and so he fled west, to travel by way of Strathfillan, Glen Lochy and the head of Loch Awe into Kintyre and the safety of Dunaverty.<sup>34</sup>

This explanation is completely unsatisfactory. If Methven had been such a disaster for Bruce, he would surely not have chosen such a long and difficult route to safety. Only if he went first to Aberdeen (as Barbour states, in conflict with the other evidence) would it have made sense for him to take the landward route to Dunaverty. This route also took him through fiercely hostile territory. Another problem with this explanation is in the timing of the battle at Dal Righ. If we accept Professor Barrow's contention that Fordun's date of 11 August is wrong, probably referring properly to 13 or 30 July<sup>35</sup>, then Bruce, in flight, took between four and six weeks, with a few men, to cover little more than sixty miles. Surely



if he had been in flight from Methven he would have travelled south-west, to his own land of Carrick, or to Ayr, from whence he could escape the English by sea. This journey is fully fifty miles shorter than the northern route to Dunaverty, over easier terrain, and would not have taken him across the land of such inveterate enemies as John of Argyll. Even had the English pursuit forced Bruce to take the longer route, it seems strange that his westward retreat was so slow, and that Valence and his troops stayed in the east, rather than going in pursuit of the fleeing rabble.<sup>36</sup> Barbour's account follows the defeat at Methven not with a westward flight, but with a time in the hills and a venture to Aberdeen, where Bruce was joined by his queen and the other ladies. The journey westwards and the battle at Dal Righ then follow. This trip to Aberdeen contradicts the other chronicles, and the site of the battle at Dal Righ does not suggest a march to Kintyre from that direction. However, perhaps an explanation which compromises the two versions, and which does not necessarily demand that Fordun's dating is inaccurate, could more satisfactorily interpret the events of the summer of 1306.

The battle of Methven was, by all accounts, a rout. However, Fordun states that Bruce lost few men. Is it not possible, therefore, that Bruce retreated, still with a sizeable body of men, to a safe distance from Perth, and, in the hills, continued his efforts to raise the land against the English occupation, and to gather more followers to his standard? It is feasible that in this period he ventured northwards (although scarcely so far as Aberdeen), and from there, to save them the rigours of the campaign, sent the ladies north to refuge at Kildrummy. If his activities in the two or

three weeks after Methven were in the Aberfeldy - Loch Tay area, we have a reason for the earl of Strathearn's men being sent "beyond the mountains"<sup>37</sup>, and an explanation of the "engagement by Loch Tay"<sup>38</sup>, neither of which fit comfortably into the picture of an immediate flight westwards.

The events of the summer and autumn of 1306 may thus be summarised as follows. Bruce was put to flight from Methven, but still had forces enough to regroup quickly in the mountains and pose a sufficient threat to prevent Valence pursuing him away from home ground. Having regrouped, he then pursued an aggressive campaign in the Loch Tay area, in which he was opposed perhaps by some of Valence's force, and by the earl of Strathearn's men. Before the next phase of the campaign, he sent the ladies to Kildrummy, and Valence went north in search of them. Bruce then pushed westwards; having failed to establish himself over the English in the east, he now turned his attention against the internal opposition of the Macdougalls and their allies. Their subjection would provide for him command over an area of great military value which was almost impenetrable for an English army, and from which, if necessary, he could weather the impending invasion. These plans were foiled, however, by John of Argyll, who was waiting for Bruce when he reached the head of Strathfillan in early August (by which time the queen and the other ladies had probably been at Kildrummy for several weeks, the only point in which this interpretation of events differs from Fordun's narrative<sup>39</sup>). The sound defeat at Dal Righ was more damaging to Bruce than that sustained at Methven, and probably so severely reduced his army that he now had no option but to go into



hiding until he could gather more support. He fled with only a few followers by the fastest and safest route, through friendly Lennox, across the Clyde to Bute, where he held Rothesay castle, and thence to Kintyre and Dunaverty. We may assume that Bruce would be at Dunaverty within a few days of the conflict at Dal Righ. Perhaps the same messenger who carried the news of that victory to King Edward also told him of the direction of Bruce's flight: by mid-September Dunaverty was under siege<sup>40</sup>, and Bruce had gone from there to the Hebrides, Ireland or perhaps Orkney, where he sheltered until ready to make another attempt to win the kingdom. Barbour's tales of Bruce, alone in the wilds without food or succour, probably contain little in the way of truth, being folk legends which are applied to many heroes; but Fordun's picture of the king as a fugitive and the laughing-stock of his enemies cannot be too great an exaggeration. Certainly, references to "King Robin" indicate that he was no longer taken very seriously by the English. Langtoft, a near-contemporary chronicler, describes him thus:

"King Robin....  
 ...in the forest, mad and naked,  
 He fed with the cattle on the raw grass".<sup>41</sup>

His fortunes were at a very low ebb. There was now no panic in the measures taken by the English king to effect his capture. It was known that Bruce was "lurking" in the isles, being hunted by John of Menteith and others<sup>42</sup>, and only time was needed finally to end the rebellion. By the end of 1306 many of Bruce's most influential supporters were either in chains or dead. Those executed included his brother Neil, the earl of Atholl, Simon Fraser, John of Cambo, David of Inchmartin, Christopher Seton, and Alexander Scrymgeour.

The queen, Bruce's two sisters, his daughter, and the countess of Buchan (who had crowned Bruce at Scone) were imprisoned, as were the bishops of Glasgow and St. Andrews, the abbot of Scone and other clerics, the earl of Menteith, the infant heir of Mar, and a host of other, lesser men captured at Methven and elsewhere.<sup>43</sup> Edward I had high hopes of Bruce's capture, and on 11 February he wrote to Aymer de Valence demanding to know why Bruce had not so far been taken.<sup>44</sup> This letter must surely refer to the search for Bruce in the isles: it is far too early for Edward, even if he knew of Bruce's return to Carrick, to have expected news of his capture there. Clearly, he had expected an end to the affair before this, and as early as 3 November 1306, had planned a parliament, to be held at Carlisle on 20 January 1307, "for the ordaining and establishment of Scotland".<sup>45</sup> But the establishment for which Edward I hoped was not to come about so quickly.

One of Bruce's main problems was lack of resources. Without money he could not have raised and held the force he required for his renewed attempt on the kingdom. In the later months of 1306, therefore, Bruce was not merely in hiding, but at work gathering support and resources. At the end of the year, he sent men to Carrick to gather his Martinmas rents<sup>46</sup>, an act of impudence which must have greatly infuriated King Edward. Fordun tells of the aid given to Bruce by "Christina of the Isles", Christina Macruarie, who had close connections with the Bruce family through her husband Duncan of Mar.<sup>47</sup> This lady doubtless aided Bruce with shelter, funds and men. He may well also have employed his considerable connections with parts of Ireland, and visited there, using his Carrick rents and



money supplied by Hebridean supporters, to recruit men. Guisborough and the Lanercost chronicler agree that Bruce and his brothers invaded Carrick with Irish and Hebridean troops.<sup>48</sup>

Bruce probably chose February to re-enter Scotland from the isles because, after having collected his Martinmas rents, he had had time to gather men. The weather would be to his advantage, making difficult both communications and the movement of large numbers of troops. It was in all likelihood the earliest possible occasion on which he could recommence the rebellion: any prolonged delay would merely blur the memory of the recent uprising and allow the English to re-pacify the land more thoroughly.

In early February<sup>49</sup> Bruce sent an advance party to Galloway under the command of his brothers Thomas and Alexander, and shortly thereafter came himself, with Douglas and others, to Carrick. Thomas and Alexander Bruce were almost immediately overcome and captured by Dungal Macdouall, "a chief among the Gallovidians". Macdouall sent the brothers Bruce to King Edward for judgement and execution; those whom he had captured with them, he took it upon himself to execute.<sup>50</sup> Bruce proved, however, that his presence in the kingdom, even with only a few supporters, was of more use to his cause than was his exile.

"Notwithstanding the terrible vengeance inflicted upon the Scots who adhered to the party of the aforesaid Robert de Brus, the number of those willing to establish him in the realm increased from day to day."<sup>51</sup>

Immediately after his arrival in Carrick, Bruce attacked his ancestral castle of Turnberry, held by Henry Percy, and took, according to Guisborough and Barbour, considerable toll of the

garrison and stores there, until English reinforcements arrived.<sup>52</sup> He remained in the Galloway/Carrick area for some months, gradually winning the people of the land over to him, and amassing support. Barbour's picture of his stealthy, almost incognito movements in the area are given more than a hint of authenticity by a brief of Edward I in which Valence was ordered to acquit "all who have been compelled by the abettors of Robert de Brus to rise against the king in war, or to reset Robert innocently by his sudden coming among them".<sup>53</sup> Those who rose for Bruce without compulsion were treated less leniently.<sup>54</sup> By mid-March the effects of the rebellion were being felt in the land: on 17 March King Edward asked permission of the pope to endow Lanercost Priory with a church in his patronage, since the priory, being situated in the marches, was so much devastated by Scots raids.<sup>55</sup>

By late April Bruce was in a position to take on English forces in the open field. An ambush on a body led by Valence which had made a foray into Glen Trool<sup>56</sup> was closely followed by a march northwards and a victory over Valence at Loudon Hill.<sup>57</sup> This was as far north as Bruce had ventured since his return from the isles, and in forsaking the cover of the Galloway mountains for the more open land of Ayrshire he showed a confidence which must have found him much support. His growing popularity may also be ascribed to the considerable antipathy felt towards the English in that area. Guisborough's comment that the Scots were frightened by the harshness of English law, and would rather die than be judged by it, is perhaps significant in this context<sup>58</sup>, and the reason for Edward's offer of acquittal to those who aided Bruce under compulsion was that his rule in Scotland had been deemed too cruel.<sup>59</sup>



Having defeated Valence, Bruce immediately attacked another English force led by the Earl of Gloucester, which he forced to retreat before him to Ayr, and he besieged that town until English reinforcements arrived, compelling him once again to take cover.<sup>60</sup> Edward I was disturbed by these events<sup>61</sup>: the last few months of his life were infuriating for him. He was "much enraged" by the news of these two defeats (which had reached him by 15 May)<sup>62</sup>, and frustrated at being unable to move north and take command personally of the campaign against this 'King Hobbe', who little over three months earlier had been lurking in semi-exile, and yet now led a force which could turn Edward's own armies to flight. To be so helpless against this adversary, on his death bed, was a bitter failure.

The knowledge that Edward was dying must have given Bruce new hope. He, like others, would be aware of the weaker nature of the king's heir, and just as the English prayed for Edward I's continued life, because the English cause would be lost when he died<sup>63</sup>, Bruce and his supporters must have been impatient for his death. The Scots propagandists were making full use of the king's illness, quoting prophecies of Scottish and Welsh resurgence after his death<sup>64</sup>, and showing that Bruce's rising was no impulsive, superficial armed revolt, but a well orchestrated and ordered campaign, as yet in its infancy, but nonetheless with all the hallmarks of the 'royal war' which had been carried on by the guardians for most of the previous decade.

Bruce's tactics in this stage of the war were very sound: the 'false preachers' from his army were exploiting every propagandist advantage, and his military strategy was aimed both at weakening the

English power, and gaining maximum support. He was not pursuing the hit-and-run guerilla tactics which he frequently used so effectively, but in this period was campaigning openly, taking on the English in the open field. This was to be the hallmark of Bruce's military leadership: he was not hidebound by any single military policy. When he had sufficient confidence in his ability to win, he was willing to fight, and when he was not in that position, he harassed and subtly eroded the enemy's power. His brilliance as a commander lay in his judgement of when, and when not, to fight.

King Robert's power to force an English retreat - to appear the victor - must have won him more support than all his propagandists' work. Like the lord of Douglas, who, on the brink of surrender, was persuaded to remain loyal to Bruce by the sight of the retiring English army<sup>65</sup>, many must have been encouraged to join Bruce in these weeks by the allure of being on the side which looked ripe for victory. Even the English and those Scots who supported them recognised this:

"Brus never had the goodwill of his own followers or the people at large or even half of them so much with him as now; and it now first appears that he has the right, and God is openly for him, as he has destroyed all the King's power both among the English and the Scots, and the English force is in retreat to its own country not to return".

It was feared that if Bruce went north of the Mounth, all there would be for him; the king must send help, or the people "must be at the enemies' will through default of the King and his Council".<sup>66</sup> Even the will of the English themselves to stay loyal to King Edward was failing: "there are rumours of treasonable dealings between some of the English and the enemy", and the complete confusion of the English



attempts to contain the rebellion is summed up by the admission that they did not know what was happening, "for what they hear to be true one day is contradicted the next".<sup>67</sup>

Edward I died on Friday 7 July<sup>68</sup>, at a time when his forces in south-west Scotland could attempt no more than to uphold their garrisons, keep communications open, and maintain supplies in their castles. They had so far prevented Bruce from leaving the confines of the south-west: provisions for naval cover to prevent him leaving by sea were made in mid-June<sup>69</sup>, and whilst there was still a real threat of a major English force coming north, Bruce would not wish to expose himself by leaving the comparative safety of the south-west and spreading his forces out in an attempt to widen his sphere of influence. However, as expected, the death of Edward I greatly strengthened Bruce's hand. Guisborough states that having taken the homage of his English magnates, the new Edward II went to Scotland only for long enough to take homages from Scottish magnates, and confirm the appointments of his guardians there.<sup>70</sup> The Lanercost chronicle states that he took his army, already assembled at Carlisle for the planned expedition, into Scotland, in order to take homages. Having failed to find Bruce, he "returned empty-handed to England after certain guardians had been appointed".<sup>71</sup>

It seems that only a sense of honour persuaded Edward II to continue his father's great expedition to Scotland, which reached Dumfries by 6 August. By 21 August Edward had got as far as Cumnock, where he stayed for only a week before starting southwards once more. On 30 August he was at Dalgarnock and Tinwald near Dumfries, where he re-appointed Aymer de Valence as guardian in Scotland. He had

returned to Carlisle by 4 September, and was at Westminster by late October.<sup>72</sup> Edward's disinclination to follow his father's wishes that he should not hurry to take up the crown, but continue the expedition, and carry the old king's bones against the Scots<sup>73</sup>, was without doubt of great value to Bruce. The apprehension expressed in the letter of May 1307<sup>74</sup> was to be justified: when Edward I died, all fortune swung towards Bruce's cause. Edward II did indeed hand Scotland to King Robert by default.

As soon as Edward II and his army were out of range, Bruce appears to have stepped up his action in the south-west. On 30 September the new guardian of Scotland, John of Brittany, the earl of Richmond (who had been appointed to replace Valence on 30 September)<sup>75</sup>, was ordered to march to Galloway to put down Bruce, as King Edward had heard from John of St. John, Dungal Macdouall and others, that Bruce and his men were plundering Galloway, and inciting the inhabitants to rebel and invade neighbouring areas.<sup>76</sup> So ferocious was Bruce's attack on Galloway that many of the inhabitants fled southwards with their animals "through fear of Robert de Brus", and sought shelter in the forest of Inglewood in Cumberland.<sup>77</sup>

Perhaps even before Brittany had received his order to go against Bruce's harrying of Galloway, King Robert had broken out of the south-west, doubtless taking advantage of the temporary lack of English leadership, as Valence prepared to go south. He left a part of his army, which by this stage must have been a considerable size, under Douglas, to continue the southern campaign, and took his own force northwards. He had now sufficiently reduced the power of the English to attempt once again to quell some of his more important Scottish opposition.



Already there were signs that Edward II regarded the hostilities not as a rebellion by some of his Scottish subjects (although this remained the 'received view' in most documents), but rather as a war between England and Scotland.<sup>78</sup> This, clearly, was what Bruce wanted: it gave him, by implication, a national backing for the struggle. But in order to make good his kingship, and to give him any hope of winning such a war, he required the undivided support of the Scots community. He therefore moved north against John of Argyll and John Comyn of Badenoch. He went initially up the west side of the country through Lennox and Menteith, where he would swell his army, and across the mountains to Inverlochy. The presence of Bruce's army, and the fleet of galleys which had moved up Loch Linnhe simultaneously with the landward approach, was enough to force John of Argyll to accept a truce.<sup>79</sup> John of Argyll's claim that Bruce had brought between ten and fifteen thousand men over the mountains must certainly be inflated, but it nonetheless shows Bruce to have had a sizeable army. Having, temporarily at least, removed this obstacle to his further progress, Bruce besieged Inverlochy castle at the head of Loch Linnhe, which fell during October, and moved on, through the Great Glen, to Inverness.<sup>80</sup> The castles of Urquhart and Inverness were destroyed, Nairn was burnt, and the steadily growing, and seemingly unstoppable army continued eastwards towards hostile Buchan. The passage was not unopposed, however. The earl of Ross wrote to Edward II<sup>81</sup>, describing his stance against Bruce, with three thousand men, and his defence of the earldoms of Sutherland and Caithness, which Bruce had apparently threatened to ravage. Unable to oppose Bruce's force, he made a truce with him until the following

June, so saving the far north from devastation. It appeared that the prophecy in the letter written before Edward I's death, that if Bruce came north all would go his way, was being fulfilled. Two of the English king's most loyal supporters, although still at great pains to profess loyalty, had been forced to submit to Bruce, and several important castles had been destroyed. Support for Bruce was increasing in this northern area, and the men of Moray refused to rise against him, without specific orders from their lord, Reginald Cheyne, the warden of Moray.<sup>82</sup>

The difficulties which the pro-English party experienced in defending Scotland may well have been largely financial. Both John of Argyll and the earl of Ross stressed that their troops were maintained at their own expense<sup>83</sup>, a considerable burden, which not all nobles would be willing to tolerate. A document of 1309 states that no money had been provided for the payment of the garrison of Perth during the terms of office of either Valence or Brittany.<sup>84</sup> Probably in 1308 the burgesses of the same town complained of the financial penalties which had unjustly befallen them under the English administration.<sup>85</sup> Such complaints must be indicative not only of financial difficulties, but also of a dissatisfaction with the English king's handling of the situation, which goes some way towards explaining John of Argyll's distrust of his neighbours, the reluctance of the men of Moray to resist Bruce, and the overall failure of the English administration successfully to defend Scotland. Both the letters cited above<sup>86</sup> beg Edward II to provide aid, but no campaign was planned until the summer of 1308, and even that was cancelled.<sup>87</sup> Edward II's failure to send urgently required money and reinforcements cost him dearly.



Bruce's campaign in the north shows an accurate assessment of the mood of the country. It was a hazardous undertaking so late in the year, and demonstrates a confidence in his ability to cover ground quickly with little setback or opposition. He took full advantage of the complete lack of organisation in the opposition to him. Three factors, however, prevented a quick and decisive end to this campaign. It was a great misfortune for Bruce that he fell ill; the weather was worsening; and his army was, without doubt, severely fatigued after the rigorous efforts of the previous months. Bruce attacked Elgin, but failed to win the town, and marched eastwards before retiring to a defensive position near Huntly.<sup>88</sup> Here he was somewhat dispiritedly attacked on Christmas day by a force which eventually had been assembled by the principal defenders of the area, Duncan of Frendraught sheriff of Banff, the earls of Buchan and Atholl, and John de Mowbray. There was little fighting, though, since Bruce's force was too strong to risk a battle. Soon after this, however, probably in January or early February, John de Mowbray was "in flight across the mountains", possibly as a result of the battle of Inverurie, in which Bruce won a significant victory over the earl of Buchan and his supporters.<sup>89</sup> Mowbray, however, returned to further harass Bruce's supporters in the area, but around the beginning of March<sup>90</sup> he was forced to accept a truce, probably due to the severity of the actions of Bruce after Inverurie, as he "ravaged the earldom of Buchan with fire".<sup>91</sup> This left Bruce in a position of relative safety, which allowed him to turn his attention northwards once more. He returned to the Inverness area, going via Balvenie, a castle belonging to Reginald Cheyne, which he fired. He then crossed

to the Black Isle, where he reduced Tarradale castle near Muir of Ord. One of his supporters took Skelbo castle near Dornoch. Turning eastwards again, he made another attack on Elgin, only to be foiled once more by a relieving force led by Mowbray. A few weeks later Elgin, it must be presumed, fell to a third attack by Bruce. He now had control of the area. Buchan had been savagely won, the main castles of the north had been destroyed, and the magnates of the area had been forced to submit. Other than Aberdeen itself, there was little foothold remaining for the English party. A letter of Edward II which must be dated around May, makes it clear that the English king realised that the north was lost.<sup>92</sup>

The winning of the north, and in particular the harrying of Buchan, was of vital importance to Bruce. The merciless destruction of Buchan was more than just a spiteful act of vengeance against Bruce's main rivals, the Comyns, with whom since January 1306 he had been involved not only in a political struggle, but also in a blood feud. It was the deliberate act of a king, quelling a rebellious part of his kingdom, destroying the lands of his disobedient subject, and forcing the dissident into exile. Bruce ensured, in military terms, that the north was now under his sway; he obliterated the power of one of his principal opponents in his quest for the throne; but perhaps most importantly, he asserted his kingship in a way that no opponent could ignore. Within a year of this action, King Robert was sufficiently strong to hold the first parliament of his reign. That strength was largely due to the military victory in the north, but also to the demonstration of kingship which that victory made possible.



Victory in the north-east was important for another reason. We have already noted Bruce's efforts to maintain communications with Ireland, both as an escape route, and as a source of essential provisions. The trade which traditionally Scotland carried on with the Low Countries and Norway was also essential to any potential ruler of Scotland. One of the first acts of Wallace and Moray after their victory over the English in 1297 was symbolically to announce the re-opening of trade links, in their letter to Lübeck and Hamburg. Part of Bruce's intention in the northern campaign must have been to gain control of this vital part of the eastern seaboard, with its crucial ports. Aberdeen castle did not fall to Bruce immediately, but the town was under his control by the middle of the summer of 1308. By then, the frequent complaints of piracy against English ships by the merchants of Flanders, Zeeland, Hainault and Frisia had begun, and from about this time there are also references to commercial unease between England and Norway.<sup>93</sup> Already the support for the Scots from these countries, which was to be a constant factor in the Scots' favour throughout the war, had begun to be felt. For the next two decades Edward II tried in vain to impose his will on the merchants of these countries, who, tempted by Scotland's lucrative wool trade, ran the gauntlet of the English blockade to supply the Scots with provisions and weaponry. Bruce's total subjugation of the north-east must have provided a safe home for the foreign trade which it was his policy to promote. Aberdeen was to be the centre of a flourishing trade between Scotland and the Low Countries. The war was composed not only of military action: it also had to be seen in terms of the economy and commerce.

Having achieved his objectives in the north-east, Bruce had now to turn his attention to the other major area of opposition to him from within the kingdom, in the west. He had forced John of Argyll to accept a truce in October 1307, which had apparently been renewed for an unspecified time, but that can only have been a temporary measure, and by May 1308 John of Argyll was looking for reinforcements from the south to help stave off the inevitable invasion.<sup>94</sup> In June or July Bruce marched south-westwards, probably by way of Strathspey, Glen Truim, Rannoch Moor and Glen Orchy, to the head of Loch Awe, on which John of Argyll held three castles for Edward II.<sup>95</sup> In mid-August, in the Pass of Brander, the men of Argyll - the forces of John of Argyll and his father Alexander - ambushed Bruce's army. They were outwitted by Bruce, who counter-ambushed, and quickly put them to flight.<sup>96</sup> Alexander Macdougall fled to Dunstaffnage, which Bruce captured after a short siege<sup>97</sup>, whilst John of Argyll went down Loch Awe to his castle of Inchconnell, which, by October, was apparently the only castle in the area still held by him for King Edward.<sup>98</sup>

The course of Bruce's campaign in Argyll is sadly obscure. It may be assumed that he spent some time in those parts, subduing the land, taking the castles (at least) of Dunstaffnage, Fraoch Eilean and Fincharn. Alexander of Argyll came to his peace before March 1309<sup>99</sup>, most probably during the period of military action which followed his defeat at Brander. The other nobles of the west who attended the parliament in March 1309 (who had already been of dubious faith to Edward II in May 1308<sup>100</sup>), are likely to have submitted to Bruce (who, it is to be remembered, also had a fleet



active in the area<sup>101</sup>), at the same time. John of Argyll, who refused to submit, had apparently escaped to England by June 1309, when he is reported as having given counsel to Edward II.<sup>102</sup> He and his father, whose submission to Bruce was shortlived, were active in Edward II's service in the west in 1310, when money was granted to support them with their men in Ireland<sup>103</sup>, where an expedition was being prepared against Scotland<sup>104</sup>, at least part of which was to be directed against Argyll.<sup>105</sup> Alexander of Argyll had died, still in English pay, by 18 January 1311.<sup>106</sup> His son John continued unabated in his opposition to Bruce, and never returned to reclaim his Scottish lands.

Bruce's movements from the late summer of 1308 until March 1309 are only sketchily known. By September he had moved back eastwards, issuing documents in Inchmahome (28 September) and Dunkeld (5 October)<sup>107</sup>, and was probably present at the fall of Forfar castle, which took place on Christmas day 1308.<sup>108</sup> It is also likely that Bruce returned to the north at the end of October, where, realising the complete hopelessness of his position as an English supporter in the north, the earl of Ross finally submitted to Bruce at Auldearn on 31 October. He did homage to the king, who granted him his lands.<sup>109</sup> Ross remained faithful to Bruce, and while this may well have been due to principle<sup>110</sup>, it is probable that the safety of his lands was as important a motive. Should the earl break faith with King Robert, and thereby lose his lands, it was well beyond King Edward's power to restore them to him. This episode is typical of Bruce's attitude to the pro-English nobility. If he could win them over to his cause by either peaceful or warlike persuasion, he would try to do so<sup>111</sup>, and

if successful, would treat them in such a way as would win him loyal supporters. If persuasion failed, as it did, for example, with John of Argyll and the earl of Buchan, they were punished like any recalcitrant baron.

While Bruce had been active in the north, his supporters in southern Scotland were far from inactive. When he left the south-west in September 1307, Bruce had been powerful enough to split his forces in two, taking with him his brother Edward, Gilbert Hay, the earl of Lennox, and others, and leaving a section under the earl of Douglas to move eastwards to attack the English presence well into the eastern border area.<sup>112</sup> Barbour claims that "in a little while" Douglas brought all of Douglasdale, Selkirk forest and Jedburgh forest to King Robert's peace.<sup>113</sup> This claim must be exaggerated: much work had to be done before so large a territory, so near the English border, could truly be said to be at Bruce's peace. However, Douglas did take and destroy Douglas castle<sup>114</sup>, and Aymer de Valence's lands in Selkirk, Tweeddale and the forest of Selkirk had been seized into Edward II's hands before 12 December 1307, "because the men and tenants of the same had of late traitorously adhered to Robert de Brus, the king's enemy and rebel".<sup>115</sup> Whether or not Douglas's campaign was the "brilliant success" which has been claimed<sup>116</sup>, there is not enough evidence to say, but clearly he was to a degree successful in bringing some of the people of the land round to Bruce, and in creating enough disturbance to force others to flee to England.<sup>117</sup> The summer of 1308 also saw a further campaign in Galloway, under the leadership of Edward Bruce<sup>118</sup>, who probably came south to join Douglas after the completion of the north-eastern



campaign. Edward Bruce's force (made up, according to the Lanercost Chronicle, of islesmen<sup>119</sup>), harried Galloway, forcing many of its nobles into English exile. They fought a battle on the river Dee near Buittle castle, against an English force<sup>120</sup>, a force brought in by Donald of Islay from the western isles<sup>121</sup>, or the men of Galloway themselves.<sup>122</sup> In all likelihood, the army defeated at the Dee was composed of Galwegians and English. Certainly Dungal Macdouall, the chief lord of Galloway, had to go south for safety.<sup>123</sup> After this successful Galloway campaign, which seriously weakened the English hold on the south-west, Edward Bruce remained in the march area. In September it was known that the Scots were "nearing the marches"<sup>124</sup>, and arrangements were made for the defence of the border in the Wooler area, as well as in the western marches.<sup>125</sup> On 4 October orders were given for the defence of Berwick and adjacent parts "against hostile incursion of the Scots".<sup>126</sup> By this time, of course, probably in July, on completion of the Galloway campaign, Douglas had left Edward Bruce, and gone north to join King Robert, then engaged against the men of Argyll. Barbour tells of the part he played in the battle at the Pass of Brander.<sup>127</sup>

So, by the end of 1308 Bruce had control over Argyll, Galloway, the northern earldoms, Buchan and the Mearns, and the large central expanse of Lennox, Strathearn and Menteith. He had ousted the English or their allies from the castles of Aberdeen, Forfar, Inverness, Urquhart, Balvenie, Elgin, Tarradale, Skelbo, Inverlochy, Dunstaffnage, Turnberry and Douglas, amongst others, and his forces had Rutherglen under siege.<sup>128</sup> The eastern march was under constant threat, and repeatedly the English had been compelled to retreat

before the Scots. Bruce's policy of dividing his army and using relatively small, highly mobile units, signifies his confidence that nowhere in Scotland would he find well-organised, coherent resistance.

The Lanercost chronicler makes an astute comment in saying that Bruce was "taking advantage of the dispute between the King of England and the barons".<sup>129</sup> The abandonment of the Scottish campaign of 1307 had caused some opposition to Edward II amongst his nobles, many of whom had benefited from Edward's bestowal of Scottish lands upon them. As the likelihood of a renewed campaign receded, and Bruce made headway at the expense of English landholding in Scotland, those English nobles who had Scottish lands to lose became increasingly opposed to Edward's policies. The failure to hold Scotland in 1307 - 1308 must be one of the major reasons, alongside the Gaveston affair, why Edward II encountered so much difficulty with his baronage.<sup>130</sup> The ordinances produced by the English opposition party in April 1308 propounded the belief that the earls were bound to support the 'estate of the crown' as distinct from the person of the king.<sup>131</sup> Bearing in mind the king's sworn obligation to prevent diminution of the kingdom, these ordinances probably bear relevance to Edward's 'abandonment' of Scotland. Bruce's use of the English situation is clear. Almost immediately after Edward II left Scotland in 1307 Bruce stepped up his action in Galloway. When baronial opposition to Edward II began to appear in early 1308, Bruce was in the course of his north-eastern campaign, taking full advantage of the inadequate back-up given to the defenders of Scotland. By the time the opposition to Edward was open, and there



was no chance of an English invasion, Bruce's rebellion was rampant. He was exploiting the English inaction with regard to Scotland to pursue relentlessly the campaign against his Scottish opposition.

Bruce's policy in 1307 - 1308 was, quite simply, to win the land - to overrun the country and become dominant in the kingdom at large. In striving to achieve this goal, he could to some extent ignore castles, where they did not pose a direct threat to him. Thus the campaign in Galloway left unscathed the important chain of English-held castles. Although several important castles fell to the Scots in the north, others which did not, such as Banff, were left alone. In the Argyll campaign Bruce, having taken two of the Loch Awe castles, was content to return eastwards leaving John of Argyll still in possession of the third. What mattered to Bruce in the short term was gaining sway over the land, and therefore over its people and its revenues. The presence of increasingly isolated communities of English, restricted to strongholds, was of little consequence to Bruce, if he controlled the land. Bruce's earliest extant acts of government, dating from September and October 1308, are significant in this respect: previously he had attempted to assert his kingship in specific royal actions, such as the securing of the election of Nicholas of Balmyre as bishop of Dunblane<sup>132</sup> and the harrying of Buchan. However, having increased his influence over the kingdom, he could now begin to develop his own administration, and thus claim actually to govern Scotland. As with the guardians, it is impossible to say when the English administration ceased to govern Scotland, and Bruce's began. There was inevitably a period, when the records of both are scanty, during which the two rival governments

struggled for mastery. Certainly, Edward II attempted to maintain his Scottish administration: an order regarding the collection of custom from merchants' goods, of June 1308<sup>133</sup>; the presentation of priests to Scottish churches<sup>134</sup>; the administration of the financial affairs of those towns still under his control<sup>135</sup>; his appointment of sheriffs, and orders to them regarding land and revenue disputes<sup>136</sup>; and his receipt of appeals and pleas from faithful Scots<sup>137</sup>, all demonstrate Edward II's attempt to continue the business of Scottish government. Indeed, the upkeep of the posts of chancellor, chamberlain and lieutenant of Scotland is in itself a sign that Edward had not abandoned the principle of English hegemony over Scotland. But without military enforcement of this government, the administration was doomed to extinction, and the Anglo-Scottish household inevitably became largely nominal.

By the end of 1308, therefore, Bruce had to a great extent won Scotland. He held sway over much of the land and its resources, and although there was still a considerable English presence in many castles and towns throughout the kingdom, that presence was so fragmented and restricted, that in terms of the actual administration of the kingdom, apart from the economic difficulty of burghs and ports being denied to him, Bruce had relatively little to fear from the English occupation.

Edward II realised that he had lost Scotland by the end of 1308. When, in October, Philip IV of France requested Edward to grant a truce to the Scots<sup>138</sup>, Edward's readiness to concur with the proposal reveals an appreciation of the hopelessness of the English cause in Scotland. Edward was aware that a new phase of the war was



beginning. From February 1306 until the end of 1308, Bruce was on the offensive, challenging the English government of Scotland. Initially, Edward I had the upper hand, and was defending Scotland against this threatened usurpation, as he saw it. By 1309, however, the tables had turned. In order to recover Scotland, Edward II would have to wage an offensive war, and Bruce was in the position of defending his hold over the kingdom, against a foreign aggressor. He could claim sovereignty over his land now, and could claim arguably the most influential king in Europe as his ally.<sup>139</sup>

Edward II, not yet at ease in his relations with the English nobility, and deeply embroiled in economic difficulties, was probably glad to gain a respite from the constant pressures of the war, and on 14 November appointed envoys to treat with the Scots.<sup>140</sup> A fortnight later, again at the request of Philip the Fair, Edward granted conducts to Scots envoys coming to Berwick "or elsewhere in Scotland" for negotiations, and protections were issued to Philip's own envoys, going to treat with Bruce.<sup>141</sup> It appears that a truce was successfully negotiated, although its terms are obscure. The Lanercost Chronicle gives us most detail, stating that it was to last from February 1309 until 1 November, and that its chief condition was that both sides should accept the status quo as at July 1308.<sup>142</sup> The truce was shortlived, however. By early June 1309, Edward II was complaining that the Scots had disregarded it<sup>143</sup>, and was planning a punitive expedition to Scotland.<sup>144</sup>

Both kings, however, had used the short truce profitably. Edward had been able to victual and provision his Scottish castles, but had spent more time on his internal English affairs, working

towards the recall of Gaveston, who had been banished since June 1308. King Robert used the breathing space further to assert, and publish abroad, his kingship. On 16 March 1309, a gathering of at least a substantial part of the Scottish community met in King Robert's parliament at St. Andrews. Their business was, primarily, openly to proclaim King Robert as the sovereign lord of Scotland. Philip IV of France, who had been in negotiation with Bruce since November 1308<sup>145</sup>, had written to a section of the community<sup>146</sup>, making reference to King Robert in the most pleasing terms<sup>147</sup>, suggesting that he give aid to a French crusade. The Scots' reply<sup>148</sup>, which ran in the name of the pro-Brucian earls, the 'communities' of those earldoms whose heirs were in ward, and many well-known noble supporters of the king, was a formal statement of their position. Their first commitment was to Robert dei gratia King of Scots, and although they were greatly impressed by the French king's favourable regard, they felt that, whilst certainly devoted to the cause of Christendom, they could not direct their energies towards a crusade until the king and kingdom had been restored to "pristine liberty" (in pristinam libertatem), the war over, and peace re-established. For the moment, their minds were full of the damages and oppressions which they still suffered.

This letter tells us much about the state of Bruce's cause in early 1309. He had some formidable support at his disposal, and was accumulating the trappings of Christian kingship: the formal title, the rhetorical, flowing chancery writing style, and the fashionable avowed desire to aid the Holy Land. Support for the crusading ideal was starkly echoed in the Declaration of Arbroath, which fact



demonstrates with great clarity the consistency of Scottish tactical foreign policy throughout the reign. Philip IV's letter to the baronage gave them a good opportunity to reaffirm their belief in Robert I as their rightful king, and publicly to place their trust in him as their leader who would, with God's grace, relieve the realm of the burden of oppression.

To re-open formal relations with France was a great step forward for Bruce. This was not merely the first stride in international recognition of his status (and that of his kingdom), carrying immense advantages in diplomatic and propagandist terms, but it also paved the way for a strengthening of the financial position of the new administration. Although French merchants do not greatly figure in the English king's constant complaints about piracy and pro-Scottish 'trading', there can be no doubt that open relations with France brought the Scots important benefits in supplies of arms and other necessary war-time provisions, as well as the normal pecuniary and material profits of foreign trade. It has been stated that mercantile contacts between France and Scotland were few during the war.<sup>149</sup> The same author, however, cites certain references to the French supplying Scotland. It must also be remembered that in time of peace the most natural trade route would be through England. The certainty that English-based merchants were in collusion with the Scots during the war<sup>150</sup> makes it probable that French trade continued by that less documented route. At any rate, it seems inconceivable that the French, prepared to give King Robert formal recognition and to support his cause diplomatically, would baulk at conducting trade with his kingdom. Such mercantile association must have been a major

factor in the Scots' pursuit of the French connection, along with the less tangible benefits in diplomacy, propaganda and prestige.

Soon after the issue of this letter to the French king, the clergy in parliament, claiming to speak for "the bishops, abbots, priors and other clergy in Scotland", issued an even more overt declaration of support for King Robert and for the cause of Scottish sovereignty.<sup>151</sup> The importance of this document lies in the unity which it claimed in support of the king. It is the earliest formal declaration of his de jure kingship, directed to no specific personage, but "to all the faithful in Christ to whom the present document shall come", proclaiming to the world that Bruce was the rightful king of an independent kingdom, and that the Scots were fighting a just war, in accordance with the divine will. That it was the clergy who propounded this view is no surprise: the declaration was a retort to English propaganda which constantly played on the Scots' estrangement from the papacy. Only two months later Bruce was again denounced as excommunicate by Pope Clement V, because of his lack of concern regarding previous censures, "at great cost to the realms of England and Scotland, and to the prejudice of the Holy Land".<sup>152</sup> The clear expression of support by the national church which this declaration provided gave Bruce the spiritual respectability and the aura of Christian kingship which he required, and reduced the papal opposition to the level of a Scotto-papal dispute, which many Christian princes would understand from first-hand experience.

Bruce did not have undivided support from the people or community of Scotland. But he did have sufficient control over the



land, and could truthfully claim enough support to enable him to declare his de facto as well as his de jure kingship, to open political relations with other monarchs, and perhaps most significantly of all, to gather "all his faithful subjects" together in parliament. Militarily, King Robert could now afford to fight a defensive war; in terms of government, diplomacy and propaganda, however, he was most certainly on the attack.

A marked feature of the new phase of the war which began in early 1309, is that it occupied less of the king's time. He had to a great extent won his land, and was no longer required to conduct every campaign in person. He could now leave much of the campaigning to his able commanders such as Douglas, Moray and his brother Edward, and, as demonstrated by the St. Andrews parliament and the issuing of acts of government, devote more of his time to administrative affairs. The consequent decrease in detailed evidence concerned with military activity does not signify that the land was at peace. In May 1309 the truce with England was apparently still in force<sup>153</sup>, but by June hostilities had recommenced, and Edward II was planning an expedition to curb the rebellion.<sup>154</sup> The truce, he said, had not been observed by the Scots, who "in fraudulent and hostile fashion have invaded and daily attack castles, towns, manors, lands and tenements, belonging both to ourselves and our faithful subjects"<sup>155</sup>

Bruce, then, was continuing his campaign against the remaining English presence in Scotland. In June, Edward wrote of the danger to his castle of Ayr from "the incursions of the rebels".<sup>156</sup> Letters of Edward II also imply that during 1309 the castles and towns of Perth, Dundee and Banff were under similar threat, the warden of Scotland

(now John de Segrave<sup>157</sup>) being ordered to take any truce which would save the castles until June 1310, when Edward hoped to be able to relieve them.<sup>158</sup> Roxburgh, Edinburgh, Linlithgow, Stirling and Kirkintilloch castles were to be garrisoned and provisioned urgently, in order that they might be saved from the enemy "without any truce or suffrance".<sup>159</sup> Other castles mentioned in similar letters are Caerlaverock, Dumfries, Dalswinton, Tibbers, Lochmaben, Buittle, Jedburgh, Dunbar, Dirleton, Selkirk and Bothwell.<sup>160</sup>

Whilst it is unlikely that all these castles came under direct assault by the Scots during 1309, there can be no doubt that the reduction of strongholds was one of Bruce's main aims in this period, and thus all English-held castles were deemed to be under threat, even the apparently secure Lothian group. Unfortunately, Barbour's narrative is of little help in unravelling the course of events, since, although it is the most detailed account we have, and remarkably accurate in many passages, its self-avowed romantic structure led Barbour to choose the events most suited to his tale, and to have a somewhat liberal attitude to chronology. It would be unfair to accuse Barbour's work of being flawed in this respect: it did not set out to be a complete chronicle of the events of Bruce's reign, and should not be judged as such.

The success of Bruce's efforts in 1309 is thus difficult to assess. Rutherglen and Dumbarton<sup>161</sup> both fell into Scots hands early in the year, but of other Scots successes there is no record. Bruce spent some time in the north in the summer and autumn, and indeed appears to have made a royal progress round much of the kingdom between April and November<sup>162</sup>, but nevertheless, his forces appear to



have caused enough anxiety, even before this, to push Edward II into negotiations for a further truce, or even for peace. Richard de Burgh, earl of Ulster, was given a commission to treat in the king's name with Bruce or his assignees "for peace and concord" on 21 August.<sup>163</sup> On the same day a safe-conduct was issued to John of Menteith and Neil Campbell, who had been sent by Bruce for the negotiations.<sup>164</sup> What, if anything, came of these negotiations, is unknown. The Scots were later accused of refusing to uphold any of the truces 'granted' by Edward II prior to July 1310<sup>165</sup>, and so even if a truce was agreed upon in June 1309, it probably made little difference. Certainly, Edward II continued the preparations for his intended campaign to curb the disobedience of the Scots, issuing orders to large numbers of men from England and Wales to meet at Berwick in early October 1309.<sup>166</sup> Perhaps it was the realisation that this expedition was not going to be ready to set off for Scotland before winter<sup>167</sup> that encouraged Edward to enter new negotiations in the autumn of 1309. Conversely, it may be that the negotiations were timed to coincide with the expedition, in order that Bruce would feel under pressure to avert an invasion and reach an easy and favourable settlement. If so, the plan failed, and in October Edward II eventually cancelled the planned muster "on account of the winter", leaving instead a force under Robert Clifford and Henry Beaumont to guard and hold the border against Scottish incursion.<sup>168</sup> The great invasion plans were now rescheduled for June 1310<sup>169</sup>, and a further truce was sought.<sup>170</sup> Perhaps because of the English threat, apart from an early visit to Dumbarton, Bruce appears to have spent the year in the central area of his kingdom.<sup>171</sup> The

war continued much as it had done in the previous year: in February Edward II gave power to William Lamberton, bishop of St. Andrews (who was still in 'open' custody), Robert de Umphraville, earl of Angus, John fitz-Marmaduke, John Wischard, William Bevercote (Edward's chancellor of Scotland), John Weston (the chamberlain) and Alexander le Convers to treat with les gentz d'Escoce for a truce.<sup>172</sup> Apparently such truces could not be procured without "great expense", but Edward, working on the advice of his faithful supporters in Scotland, was prepared to pay the price.<sup>173</sup> These truces were presumably intended to prevent any further losses to the English until Edward could mount the invasion which he hoped would end the war.<sup>174</sup>

It is a sign of Bruce's strength in this period, that although there was still a considerable English presence in his realm, and although there was still a functioning English administration over part of it<sup>175</sup>, he was nevertheless able to demand either large concessions or high prices (more probably the latter) for these truces which he felt (if we believe English accounts) he could break at will.<sup>176</sup> He was also in a position to begin negotiations for the release of his sister Mary, who had been imprisoned in Roxburgh since 1306.<sup>177</sup> He continued, despite periodic English royal blusterings, to sustain his lines of supply from the continent, Ireland, and indeed England itself.<sup>178</sup> The military action which Bruce maintained in Scotland was outwith the control of the English garrisons, and those Scots faithful to the English king made it clear to him that in no way could he give sufficient counsel in his affairs in those parts unless he went there in person.<sup>179</sup>



Throughout the early summer, Edward II was once again mustering a sizeable army, with all the necessary logistical preparations, for a large-scale invasion of Scotland.<sup>180</sup> The troops were supposed to gather at Berwick in mid-August, and a parallel expedition from Ireland was planned, to be led by the earl of Ulster and John of Argyll. There were high hopes that this western expedition would be successful; in July, Edward II made a grant of the lands of Knapdale in Argyll to John Macsween of Argyll, "Terrealnanogh" and "Muirquocgh", brothers of John of Menteith, and others who had forsaken Bruce to come back into Edward's faith. The grant was, however, conditional upon the land being recovered from the enemy's clutches.<sup>181</sup> They did not receive their lands. As early as 2 August the departure of some of the Irish troops was cancelled, supposedly because of the approaching winter. The force was put on stand-by, however, to be ready to sail when the order was given.<sup>182</sup>

Early in September, Edward's army set off for Scotland, although depleted by the refusal of some of his earls to co-operate with him, due once again to the disruptive influence of his favourite, Piers de Gaveston.<sup>183</sup> Immediately, the expedition ran into problems. On 8 September, even before crossing the border, Edward complained bitterly that already he was experiencing difficulty in finding food for his army, and was displeased with the lacheste (? laxity) of his ministers.<sup>184</sup> Such complaints continued over the following six weeks, and should probably be taken as an early sign of the chronic maladministration which afflicted the north of England in the years after Bannockburn. Sir Thomas Gray, in his Scalachronica, blames administrative inefficiency for the loss of Scotland: Bruce's

success was "chiefly the result of bad government by the king's officials, who administered [Scotland] too harshly in their own interest".<sup>185</sup>

Eventually the army ground its way over the border in mid-September. English royal acts are dated from the border area from 20 to 28 September, from Biggar, Lanark and Renfrew from early to mid-October, and from Linlithgow from 23 to 25 October. That was the limit of the expedition to win back Scotland. Acts show Edward at Glasgow on 1 November, and back in Berwick by 6 November.<sup>186</sup> His favourite Gaveston remained with a royal force in Roxburgh.<sup>187</sup> Bruce had been prepared, however, for any attempt by Edward II to push further north. In early October he was reported to be "on a moor near Stirling with his forces".<sup>188</sup> Had Edward been able to proceed further than Linlithgow, the battle of Bannockburn might have been fought in 1310, with what effect is impossible to tell. This reference again brings into doubt Bruce's complete devotion to guerilla warfare. When the occasion demanded, as at Methven, Loudon Hill, and in 1310, he was prepared to encounter his enemy in the field. Lanercost's comment that the Scots fled before the English in 1310, not daring to meet them<sup>189</sup>, is based on a misconception of Bruce's tactics. Like any good commander, as he did at Bannockburn, he chose his defensive site carefully, on a moor near Stirling - the obvious (and usual) place to try to stop an invading army. But the English did not venture any further, and this first phase of the expedition achieved nothing for Edward apart from the reinforcing of a few castles. The western effort, if indeed it took place at all, was equally unsuccessful. It certainly did not cow the Scots, since



Bruce was reported to be intending to use "the whole fleet of the western isles" to attack Man during the winter, and recover it for the Scottish crown in order to use its resources for his own war effort.<sup>190</sup> It was also mentioned that many Manx malefactors, adherents of Bruce, had been causing trouble in England, and were to be arrested.<sup>191</sup> Perhaps Bruce had some support in Man, but it was not sufficient to allow this expedition, if it took place, to win the island, which remained in English hands for a further two and a half years.

Edward wintered in Berwick, still embroiled in his incessant quarrels with his baronage, who were "much disturbed and enraged" at the king's decision to stay in the north and move his administration to York. There were fears of uprising, and the earl of Lincoln, appointed Edward's lieutenant in England during the king's absence<sup>192</sup>, refused to act any longer in that capacity, or to keep the king's peace.<sup>193</sup>

Edward's problems with the English baronage, his inability to make effective the ban on supplying the Scots with food and other necessities<sup>194</sup>, and the inefficiency of his Scottish administration, made the failure of the second phase of the Scottish campaign inevitable. Lanercost states that no sooner had the English returned to Berwick from Linlithgow in December 1310, than Bruce invaded Lothian, causing Edward to retrace his steps northwards with a small force<sup>195</sup>, and Guisborough backs this up to some extent with a statement that Edward rode into Scotland again in March.<sup>196</sup> Both accounts agree that he found no opposition (and Guisborough further states that he found no food either), and returned to Berwick. In

February or earlier, the earl of Cornwall (Gaveston) was sent north to Perth "in case Robert de Brus, who was then marching towards Galloway, should go beyond the said sea [the Forth] to collect troops".<sup>197</sup> Also in February and March, the earls of Gloucester and Warenne were in action on the king's behalf in the eastern border area.<sup>198</sup> Gaveston in fact spent time in Dundee and Perth "as warden and lieutenant north of the Forth"<sup>199</sup>, and was appointed to keep that area until three weeks after Easter (which in 1311 fell on 11 April), after which Henry Percy and the earl of Angus were to take over.<sup>200</sup> Lanercost's claims that Gaveston received to Edward II's peace all between the Forth and the Mounth, and that Gloucester and Warenne did the same in Selkirk forest, must be treated, at best, with scepticism.

Once again, in late 1310 and early 1311, the English hoped to achieve a ceasefire. Robert Clifford and Robert fitz-Payn parleyed with Bruce at Selkirk before Christmas, and Gloucester and Cornwall would have met him again early in 1311, had he not been warned off by rumours of treachery.<sup>201</sup> Through the spring and summer, further preparations were made for another great expedition to Scotland, to gather at Roxburgh on 24 June and 1 August.<sup>202</sup> The previously postponed Irish plans were resuscitated, and Edward had hopes that it might be "one of the greatest exploits of our Scottish war".<sup>203</sup> He even raised money, to the tune of four thousand merks, for this expedition, by requisitioning the estate of the recently deceased earl of Lincoln.<sup>204</sup> But, although the Irish fleet did eventually go to work on the west coast<sup>205</sup>, the rest of the 'great exploit' never got off the ground.



Edward II's efforts against the Scots were bearing little fruit. He still failed to control both English and Irish merchants who traded with, and supplied the Scots<sup>206</sup>, and Flemish piracy against English ships in the North Sea was becoming more serious, more frequent, and more overtly pro-Scottish.<sup>207</sup> His diplomatic and propagandist campaign was also faring badly, as the pope, perhaps influenced by the apparent strengthening of the ecclesiastical support for Bruce in Scotland<sup>208</sup>, seemed increasingly inclined to receive the Scots' petitions on behalf of the recalcitrant Bishop of Glasgow.<sup>209</sup> Most importantly, however, Edward's problems with his baronage were continually deepening.<sup>210</sup> During the first half of 1311, the Ordinances for the good rule of the English kingdom, drawn up by those appointed for the purpose in the previous year, were produced. Amongst other terms, they limited the king's power to make war without parliamentary consent, prohibited his dismemberment of the crown through royal patronage, restricted his right to choose his own councillors, blamed his poor government for the near loss of Gascony, Ireland and Scotland, and specifically outlawed Gaveston once more.<sup>211</sup> Edward had no choice but to go south to have these Ordinances confirmed in parliament, and returned to London in early August, once more abandoning the Scottish campaign. The failure of his expensive preparations for war to hold or re-conquer Scotland was a major source of opposition to Edward II. It was his misfortune that that opposition was in itself a significant factor in the ineffectiveness of his military operations. The rest of the year was taken up with purely defensive action on the part of the English. Castles were reinforced and provisioned, their keepers were exhorted

to remain stalwart in their defence, encouraged by the promise of future assistance, and troops were sent to defend the border.<sup>212</sup> By early in 1312 Edward had once again appointed envoys to treat for a truce or ceasefire with the Scots.<sup>213</sup>

If 1311 was a bad year for Edward II, it was a correspondingly good one for Robert I. He had been largely taken up with the English invasion, a fact which perhaps explains why no major castles are known to have fallen to the Scots in 1311. They did, however, put considerable pressure on, for instance, Dumfries, Perth, Edinburgh, Linlithgow and Dundee.<sup>214</sup> Lochmaben had also been under siege, but had been relieved by the efforts of the earl of Atholl.<sup>215</sup> Bruce was sufficiently confident to meet English envoys in person, near the border, to treat for truces, and although an anonymous correspondent of Edward II's claimed that the Scots were "daily coming to the will and peace of the king"<sup>216</sup>, this can hardly have been true. The document dated 20 February 1312<sup>217</sup>, which lists some of those who had left Edward I's peace between 1308 and 1311 to go over to the Scots, tells a different tale. It names seven men, of whom six were landowners of middle standing (the seventh being Sir Robert Keith, marischal of Scotland). These men were all from Lothian, the last bastion of English authority in Scotland. For such men to desert Edward II indicates that even in Lothian Bruce was gaining the upper hand. By this time, Bruce had to a great extent won over the Scots, and the Lanercost chronicler is probably right in saying that

"all those who were with the English were merely feigning, either because it was the stronger party, or in order to save the lands they possessed in England; for their hearts were always with their own people, although their persons might not be so."<sup>218</sup>



The tactics with which Bruce tackled the invasions of 1310 and 1311 were consistent with those of the earlier years. He made sure there was no sustenance for the English army in southern Scotland, in order to make its progress as slow and difficult as possible. He was prepared to meet the army in the open field, given the right site and circumstances. This situation had not previously arisen; no full-scale royal army had entered Scotland since 1307, when Bruce had had no forces with which to meet it. He had, throughout the war, shown his readiness to fight when the time was ripe. Thus he was prepared to meet Edward II at Stirling in October 1310<sup>219</sup>, and was again prepared to meet Piers de Gaveston around Perth in 1311.<sup>220</sup> The first challenge was averted by the withdrawal of the enemy, and Bruce did not take on the earl of Cornwall's forces because he did not find a situation for the conflict in which he could be sure of victory. Both of these episodes, and particularly the earlier, show Bruce playing with confidence the part of a king defending his realm against hostile incursion by an enemy.

When Edward II returned to London in August, he once again left the north to its own devices. Immediately Bruce, as previously, took full advantage of the internecine strife in England to bring a new element into the war, which was to become the predominant feature of the conflict after Bannockburn. In the autumn of 1311, for the first time, Bruce carried the war into England. With the sole exception of the Bannockburn campaign, all the major campaigns between 1311 and the peace treaty of 1328 were fought on English (or Irish) soil. The third phase of the war thus shows Bruce on the offensive again: no longer against Scots opposed to him, but against a neighbouring, enemy nation. Edward II was now in a defensive posture, fighting not

to maintain his authority in Scotland, but to defend his realm of England.

Bruce's invasions of northern England in August and September 1311<sup>221</sup>, were the opening flourish in this new phase. Around 12 August, only a matter of days after Edward's return to London, Bruce invaded by the Solway route, and ravaged the western marches, returning north after eight days with "a very large booty in cattle" and a number of captives, whose ransoms would prove lucrative.<sup>222</sup> Barely four weeks later, on 16 September<sup>223</sup>, King Robert invaded again, this time by the eastern march, to go south to the area around Corbridge. After two weeks of looting, which the paltry forces assigned to the keepers of the marches were inadequate to prevent, Bruce retraced his steps, having first granted a truce for a year, for which the recipients were "heavily taxed". On his way north he took a similar payment for a truce given to the 'county of Dunbar' - Lothian, the last English enclave in Scotland. The bishop of Durham, excusing his absence from a papal General Council, asserted that Bruce, not content with his devastation of Scotland, and "claiming to be the King of Scots" (a claim which undoubtedly would be recognised in the truce), was responsible for great bloodshed and destruction. King Edward being ten days distant, the bishop was responsible for defence, without which, according to Edward II, the damage would have been far worse.<sup>224</sup>

These raids must have come as a profound shock to the English king, and, of course, to the people of the north. It is typical, however, of the northerners' cynicism regarding this war, that the chronicle of Lanercost is as disparaging about the English forces 'defending' the march as about the Scots. The English did not kill



men, or burn houses, but, notwithstanding, they were responsible for as much damage as the Scots: "they destroyed all the goods in the land".<sup>225</sup> Perhaps Fordun's picture of these raids is overplayed, with Bruce "carrying off untold booty, and making huge havoc with fire and sword", acting as the instrument of divine vengeance on "the faithless English nation", which was now "made to undergo awful scourgings" and "sank vanquished and groaning".<sup>226</sup> Nevertheless, the significance of the raids should not be underestimated: they prove that Bruce had thrown off the rôle of the underdog, and could impose his royal will on the English kingdom.

In the following year Robert I again invaded the north<sup>227</sup>, at a time when England was undergoing the turmoil which led to the death of Piers de Gaveston. In persuading the English marcher peoples to pay tribute, the Scots burnt Norham "because the castle did them great injury", and carried off cattle and men. Later in the summer the towns of Hexham and Corbridge were burnt, and a section of Bruce's army attacked the market at Durham, and razed a large part of the town.<sup>228</sup> The "people of the community of the bishopric of Durham between the Tyne and the Tees" again bought a truce with "Robert by the grace of God King of Scotland" for ten months' duration, which was to remain effective only if the people of the bishopric refrained from rising against King Robert or his supporters.<sup>229</sup> These raids into northern England became almost annual events, against which, given its weakness, the English government was practically powerless.<sup>230</sup> The money which the Scots gained in this way must have been to their advantage both in the continuing and increasing trade with the Low Countries, and in the ransoming of the many Scots who had been in English prisons for some years. The corresponding effect

on England was a significant reduction in royal revenue, since these northern lands soon became devastated and drained of cash. As a result of the consequent fall in population, fewer men could be relied upon to defend the border against the Scots. Defence and administration became weaker, leading to near-anarchy and gross dissatisfaction and unwillingness to co-operate with English royal rule. Bruce thus benefited not only financially, but also from the increased security of his own land, and from the better bargaining position which his hold on northern England gave him in negotiations for truces or peace. The propagandist advantages of a large tract of England dancing to his tune and (albeit under duress) recognising his claim to be King of Scots, in contradiction of English royal policy, cannot have been lost on him either. The importance of the north to Bruce is demonstrated by the English report of a parliament held by Robert I at Ayr in July 1312, at which he ordered the greater part of his troops to go with his brother Edward to England, while he himself remained to besiege the castles of Dumfries, Buittle and Caerlaverock. The force in England was to 'plunder the north for support'.<sup>231</sup> Later in the war it was claimed that Bruce intended to subjugate England entirely.<sup>232</sup> Such a claim was probably apocryphal, most likely Scottish, or even English, propaganda. Nevertheless, Bruce did issue charters of lands in northern England.<sup>233</sup> He did seize much of its revenue for his own exchequer, at the expense of the English crown, and he did build some peels and seize and hold some strongholds of the area.<sup>234</sup> The later carrying of the war to Ireland and Wales (perhaps with the intention of thence gaining entry to southern England), so diverting attention from the northern counties, could signify that Bruce was prepared to annex at least



Northumberland and Cumberland to his own crown. Such a policy may have been introduced in order to exert pressure on the English king to come to peace, rather than out of a wish for mere territorial aggrandizement, but this early reference to gaining 'support' in the north of England tends to give credence to the view that a gradual wearing down of English power, and eventual annexation may have been the aim of King Robert's policy.

During 1312 and 1313, Robert I had considerable success in his attempts to reduce the number of English-held castles in Scotland. In January an attack was made on Berwick, although unsuccessfully. In April Dundee fell to the Scots<sup>235</sup>, who thus deprived the English of an important supply point, and gained for themselves an excellent port for the lucrative east coast trade. Attacks were also made on Perth, Dumfries, Buittle and Caerlaverock, all of which, along with others, fell early in 1313.<sup>236</sup> By the summer of 1313, the only major castles remaining in English hands were Berwick, Edinburgh, Stirling, Roxburgh and Jedburgh. By this time, the threat of capture had even been felt in Carlisle castle.<sup>237</sup> Roxburgh fell in February 1314, and Edinburgh succumbed in the following month. It is probable that Jedburgh also fell in this period, as did Linlithgow, Dalswinton, and doubtless other smaller fortresses. By early in 1314, of the major Scottish fortresses only Berwick and Stirling had eluded King Robert, and since the summer of 1313 Stirling had been the subject of a pact by which if it was not relieved by midsummer 1314, it would voluntarily surrender.<sup>238</sup> The king also led an attack on Man in the early summer of 1313, which recovered the island for the Scots.<sup>239</sup>

In 1313 again the Scots raided south of the border, extorting tribute in return for truce. It was estimated that between King

Edward's departure for the south in August 1311, and late 1313, the people of Scotland (meaning, in context, the communities of the Roxburgh and Berwick areas) had suffered losses to the value of £20,000 by the activities of King Robert. It was considered that "matters are daily getting worse". The conduct of the garrisons of the two towns was as harsh as that of the Scots, in carrying off goods and people, ransoming and killing inhabitants of the area, and ruthlessly harassing them for goods and money.<sup>240</sup> Similar complaints had been heard against the garrisons of Edinburgh, Linlithgow, Roxburgh, Jedburgh and Berwick in 1312, and must have made allegiance to Bruce an attractive proposition to many.

Truces were made with royal authority in the winter of 1312/13 and in the summer of 1313, the latter with the aid of King Philip IV of France and the pope<sup>241</sup>, but appear to have had little effect. In July the Scots were threatening to invade the north again<sup>242</sup>, and even in early 1314, when Edward II was preparing his expedition to relieve Stirling, the Scots again entered England.<sup>243</sup>

Edward II still held hopes of recovering Scotland.<sup>244</sup> He still tried to keep a Scottish administration functioning, as is demonstrated by his continued role in the as yet unconfirmed election to the bishopric of Dunkeld, vacant since 1309<sup>245</sup>, and by his judicial process with regard to inheritance in Scotland, which clearly assumes the continuation of the status quo as established by the conditions on which John Comyn and others submitted to Edward I in 1304.<sup>246</sup> But the offices of his Scottish household carried no authority, and he had no control even over the actions of his own garrisons in southern Scotland. His instructions to these garrisons were ineffectual, and in themselves demonstrate the hopelessness of



his situation: in November 1313, in a reversal of previous policy, he acknowledged the authority of locally-won truces, and ordered his garrisons to respect them.<sup>247</sup>

In the diplomatic arena, Bruce was still faring well. His agreement with Hakon V of Norway, made in October 1312<sup>248</sup>, is evidence of the flourishing diplomatic relations between the two kingdoms. The French king had again been pressing Edward II to sue for peace, and even the pope had softened his attitude towards the Scots. Clement V had not seen fit to allow the bishop of Glasgow to return to Scotland, but neither had he accepted the English case, that he should be removed from the see.<sup>249</sup> The pope had also sent nuncios to assist in peace negotiations.<sup>250</sup>

Despite Edward II's protestations, the Scots continued their trade with the Low Countries and the Baltic<sup>251</sup>, while piracy against English ships remained a difficult problem. On several occasions, English ships were captured and taken to Aberdeen, where the sailors were disposed of, and the goods either sold or re-shipped to Flanders.<sup>252</sup> Edward was still unable to prevent English merchants from trading with Scotland, or his subjects from aiding the enemy in other ways. Nine Scots were even captured in the house of the Mayor of London's macer.<sup>253</sup>

Perhaps the most significant of the signs that Edward II was finally losing his grip on the Scottish war was Bruce's continued success in the conflict of propaganda. The English king's complaints that the Preaching Friars had persuaded many Scots to leave his fealty<sup>254</sup>, is indicative of both Bruce's methods and his success in winning over his own people.

The greatest measure of Bruce's success, however, comes in a letter<sup>255</sup> from Ralph fitz-William to the archbishop of Canterbury, in which he describes the danger which afflicted Berwick. He tells of the 'grievous menace' of treason<sup>256</sup>, but declares that nevertheless, if his men remain loyal, the town can be held against the King of France and the King of Scotland<sup>257</sup> until succour arrives. Previously, English recognition of Bruce's status is to be seen only where it had been extorted by force. But this is a private letter, written by one of the English leaders of the defence against the 'rebel'. That a letter such as this should accept Bruce's claim to the throne of Scotland implies a very great victory for Bruce, in that the English themselves, directly contrary to official policy, saw the struggle as a war between two kings and their respective kingdoms. This letter shows that Bruce had largely won his war before Bannockburn: that battle was merely a final decisive military 'rubber stamp' on the psychological and diplomatic victory which preceded it. It is noticeable how the English records, as the years pass, refer more frequently to 'the Scots' and less often to 'Robert Bruce and his adherents'.<sup>258</sup> These are signs that the war was not about a rebellion by one self-important baron of Edward's 'land of Scotland', but was rather the latest phase in the old struggle for mastery of the 'nation of Scots', which, because of the peculiar constitutional pitfall into which Scotland had fallen in the 1280s and 1290s, now wore a personal veneer which in reality was largely irrelevant to the causes of conflict.

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NOTES

- 1) Chron. Fordun I, p.310 (II, p.304).
- 2) Ibid. I, pp.206, 237, 255, 309, 336, 345 (II, pp.194, 229, 259, 314, 344, 353).
- 3) Dante, Monarchia, pp.8-9, 10-11.
- 4) Aquinas, De Regimine, p.11.
- 5) Stones and Simpson, Edward I II, p.18.
- 6) Stones, Documents, p.[97]
- 7) Ibid., p.[127].
- 8) A.P.S. I, p.475.
- 9) Stevenson, Documents I, p.164.
- 10) Stones, Documents, pp.[130-134]. It is noteworthy that as early as 5 April Edward I sent victuals to Ayr for his expedition against Bruce (Cal. Close Rolls Edward I, 1302-1307, p.374). This indicates that either Bruce's hold on Ayr was, at best, shortlived, or that English communications were poor.
- 11) Stones, Documents, p.[133].
- 12) This idea lends support to the chronicles' version of the reasons for the meeting of Bruce and Comyn - a plot to wrest the crown of Scotland from Edward I's grasp - and thus also supports the contention that Comyn's betrayal of the plot was the motive for the murder.
- 13) Stones, Documents, pp.[130-34].
- 14) Cal. Close Rolls Edward I, 1302-1307, p.374.
- 15) Ibid.
- 16) Ibid., pp.369-70.
- 17) Stones, Documents, p.[133].

- 18) Palgrave, Docs. Hist. Scot., p.331: droiturel Roi d'Escoce; p.334: droiturel Roi & Seigneur de tote Escoce.
- 19) Chron. Lanercost, pp.203-4.
- 20) See his treatment of the earl of Strathearn (Palgrave, Docs. Hist. Scot., pp.319-21; Cal. Misc. Inq. I, pp.545-6), which places him in the Crieff area, apparently with a significant amount of support, immediately after his inauguration.
- 21) Chron. Guisborough, p.368.
- 22) Foedera I, pp.982-3.
- 23) Cal. Close Rolls Edward I, 1302-1307, p.339.
- 24) Cal. Docs. Scot. II, no.1781; Palgrave, Docs. Hist. Scot., pp.336-7.
- 25) Cal. Docs. Scot. II, no.1786; Cal. Close Rolls Edward I, 1302-1307, pp.410-11.
- 26) For the date of Methven, see the discussion and references cited in Barrow, Robert Bruce, p.216.
- 27) Chron. Guisborough, p.368.
- 28) Chron. Meaux, pp.285-6.
- 29) Chron. Fordun I, p.341 (II, p.334).
- 30) Barbour, Bruce II, p.32.
- 31) Foedera I, p.1007: terra ipsa Scocie vastata, destructa, & multipliciter denudata existat; cf. Cal. Close Rolls Edward I, 1302-1307, p.471: Scotand is "wasted, destroyed and stripped bare".
- 32) Chron. Fordun I, p.341 (II, p.334); Barbour, Bruce II, pp.46-7.
- 33) Scalachronica (Maxwell), p.32; Chron. Guisborough, p.368; Chron. Langtoft, p.370-1.
- 34) A distance of some 170 miles by modern roads.
- 35) See Barrow, Robert Bruce, pp.227-8, for a discussion of the date of this battle.
- 36) Cal. Docs. Scot. II, no.1810.



- 37) Cal. Misc. Inq. I, p.546.
- 38) See Barrow, Robert Bruce, p.227 n.5.
- 39) Had the ladies been with Bruce at Dal Righ, he would probably have taken them with him to security at Dunaverty, and thence to the isles - a safer proposition than the dangerous trek eastwards across many miles of hostile ground. If, as Professor Barrow suggests, the intention was to send them to Orkney, then from Tyndrum a flight by sea would have made more sense than the landward route. The only satisfactory explanation of their presence in Kildrummy is that they never left the east after Methven. Bruce's decision to leave them there in June or July was probably made in the expectation that, having defeated his enemies in the west, he would return to the east to take the lands of Buchan, and thus effectively control the north. However, even if the theory that Dal Righ was fought in mid-July, and that the ladies then parted from Bruce, is accepted, it does not affect the basic contention that Bruce's slow westwards progress was no panic-stricken retreat, but an aggressive campaign.
- 40) Cal. Docs. Scot. II, nos.1833, 1834.
- 41) Chron. Langtoft, p.373. Even so late as May 1307 a letter refers to him contemptuously as "King Hobbe" (Cal. Docs. Scot. II, no.1979). Although the rebellion was by then a matter of grave concern, for Bruce's royalty there was as yet nothing but disdain.
- 42) Cal. Close Rolls Edward I, 1302-1307, p.482.
- 43) Chron. Guisborough, pp.368-69; Scalachronica (Maxwell), pp.32-3; Chron. Lanercost, pp.204-5; Foedera I, pp.994-5; Cal. Docs. Scot. II, no.1811.
- 44) Cal. Close Rolls Edward I, 1302-1307, p.524.
- 45) Ibid., p.470.
- 46) Chron. Guisborough, p.370.
- 47) Chron. Fordun I, p.342 (II, p.335). See also genealogical table in Barrow, Robert Bruce, pp.456-7, for her connections with the Bruce family.
- 48) Chron. Guisborough, p.370; Chron. Lanercost, p.205.



- 49) Chron. Lanercost, p.205 (by implication: it mentions Bruce's brothers, but not the king himself), gives the date as 9 February, and the accounts in Barbour and Guisborough, although less specific, seem to confirm a date about then. Chron. Guisborough, p.370, puts Bruce's attack on Percy and his recommencement of activities the same occasion as the collection of the Martinmas rents, after which he circuivit the land, putting to the sword all who opposed him. He then, however, says that Thomas and Alexander Bruce were 'split off' from the main force, and captured in Lent (8 February - 25 March 1307). This must in fact be when Bruce entered Scotland, which puts Guisborough in agreement with Lanercost and Barbour, who (II, pp.88-98) has Bruce's return only slightly preceded by the invasion of his brothers.
- 50) Chron. Lanercost, p.205 (Trans. Maxwell, p.179); Chron. Guisborough, p.370, says they were surprised by night a nostris; Cal. Docs. Scot. II, no.1915.
- 51) Chron. Lanercost, p.207.
- 52) Barbour, Bruce II, pp.112-3; Chron. Guisborough, p.370.
- 53) Cal. Docs. Scot. II, no.1909.
- 54) Ibid., no.1782; Foedera I, pp.995-6.
- 55) Foedera I, p.1012. See also, however, Cal. Docs. Scot. II, no.1891, which states that the English king his household were the cause of the priory's impoverishment. The king had been at Lanercost since early October (Cal. Docs. Scot. II, no.1839), placing an impossible strain on the limited resources of a small house. But it cannot be doubted that the priory also suffered from the troubles on the march.
- 56) Cal. Docs. Scot. II, no.1942. This document must be misdated by Bain. It must come from April, not June, 1307.
- 57) Cal. Docs. Scot. II, nos.1923, 1979; Barbour, Bruce II, pp.182-202.
- 58) Chron. Guisborough, p.378. For an earlier example of dissatisfaction with English rule, see Cal. Docs. Scot. II, no.1726. Barbour's picture of



English tyranny cannot, of course, be taken as an unbiased account, but a foreign occupation would, inevitably, be disliked.

- 59) Cal. Docs. Scot. II, no. 1909.
- 60) Chron. Guisborough, p.378 (where it is claimed that Bruce went into hiding, with 10,000 men!).
- 61) Ibid. turbatusque rex in hoc facto.
- 62) Cal. Docs. Scot. II, no.1979.
- 63) Ibid., no.1926.
- 64) Ibid.
- 65) Ibid., no.1979.
- 66) Ibid., no.1926.
- 67) Ibid., no.1979.
- 68) Foedera I, p.1018.
- 69) Cal. Docs. Scot. II, no.1941.
- 70) Chron. Guisborough, p.379.
- 71) Chron. Lanercost, p.209.
- 72) If these place-dates accurately reflect the king's progress, they show a rapid retreat. Cumnock is approximately 30 miles from Dalgarnock, which is almost another 12 from Tinwald.  
See place-dates in Foedera II, pp.2-6.
- 73) Chron. Walsingham, p.114.
- 74) See above, p.296 (n.63).
- 75) Foedera II, p.6. Note, however, that Valence held court in Rutherglen on 17 September. (Cal. Misc. Inq. II, p.2). Inevitably, it would take some weeks for Brittany's commission to become effective.
- 76) ad easdem partes de Gallewedie iam venerunt ibidem roberias homicidia depredationes incendia et alia dampna... necnon et homines partium illorum et partium adjacentum contra nos insurgere parantes et compellentes. (Close Rolls I Edward II: P.R.O. C/54/125; calendared in Cal. Docs. Scot. III, no.15.)

- 77) Cal. Close Rolls Edward II, 1307-1313, p.2.
- 78) Foedera II, pp.5-6: a request by Edward II for a dispensation for the marriage of the young earl of Fife to Edward's kinswoman, Maria de Mont Hermer, "for the good of peace and stability between the two countries".
- 79) Cal. Docs. Scot. III, no.80. For dating of this letter to April or May 1308, see Barrow, Robert Bruce, pp.254-6.
- 80) At this point Fordun's narrative, which omits all between early 1306 and September 1307, resumes the tale.
- 81) Cal. Docs. Scot. IV, no.1837 (and text, Ibid., p.399).
- 82) Ibid.
- 83) Ibid. III, no.80; Ibid. IV, no.1837.
- 84) Ibid. III, no.116.
- 85) Ibid., no.68.
- 86) See above, n.83.
- 87) Cal. Docs. Scot. III, no.47; Cal. Close Rolls Edward II, 1307-1313, p.75.
- 88) The Fordun reference to 'Slenach' (I, p.343) should read 'Slevach', and be translated 'Slioch', not 'Slains' (II, p.336).
- 89) The chronology of the following passage differs from that which is generally accepted. For differing accounts of this period, see Barrow, Robert Bruce, pp.248-50; P.M. Barnes and G.W.S. Barrow, 'The Movements of Robert Bruce between September 1307 and May 1308' in S.H.R.49, pp.46-59; Nicholson, Scotland: The Later Middle Ages, pp.77-8.  
The main evidence for the events is to be found printed in Barnes and Barrow op.cit., pp.57-9, and in Cal. Docs. Scot. III, nos.43, 47, and IV, no.1837. Bower (see Barrow, Robert Bruce, p.251) places this battle in May. The other evidence does not support this. If the battle was so late, why was Mowbray in flight southwards before this, in April? (Barnes and Barrow op.cit., p.50; Barrow, Robert Bruce, p.248). Such chronology



does not fit easily with the letters printed in S.H.R. 49. Nicholson's contention (op.cit., p.77 n.51) that it was Bruce, and not Mowbray who was in flight across the mountains, seems incompatible with the events. Why should Bruce, after victory, head southwards to Mar, and then retrace his steps to the Black Isle? Also, if Cal. Docs. Scot. III no.47 is to be dated in May, then there would have been no time for news and assessment of the battle of Inverurie, had it taken place in May, to reach Edward II. A more convincing chronology is that Inverurie was fought in January or February, immediately after which Bruce harried Buchan, whilst Mowbray retired southwards to secure the land and collect reinforcements. He then returned northwards to seek a truce, which was signed in early March. Thereafter, having secured the rear, Bruce went north to the Black Isle, where he once again came into conflict with Mowbray at Elgin. This keeps the chronology of the events closer together, makes more logical military sense (such as, for instance, placing the truce after rather than before Inverurie), and argues only with Bower, the least contemporary of the sources. It is also noteworthy that Fordun implies that Slioch and Inverurie were close together, during the time of Bruce's illness: this is inconsistent with a lengthy intervening campaign in the north.

- 90) circa principium Quadragesime: 3 March 1307/8.  
(Barnes and Barrow op.cit., p.59).
- 91) Chron. Fordun I, p.344 (II, p.337).
- 92) Cal. Docs. Scot. III, no.47.
- 93) E.g. Cal. Close Rolls Edward II, 1307-1313, pp.96, 127.
- 94) Cal. Docs. Scot. III, no.80.
- 95) Ibid.
- 96) Barbour, Bruce II, pp.239-42.
- 97) Ibid., p.243.
- 98) Rot. Scot. I, p.58.
- 99) Barbour, Bruce II, p.243. He attended the St. Andrews parliament in March 1309 (A.P.S. I, p.459), although he later went back to the English side, and lived out his life in exile.

- 100) Cal. Docs. Scot. III, no.80.
- 101) Ibid.
- 102) Ibid., no.95.
- 103) Ibid., no.132.
- 104) Rot. Scot. I, pp.83-4.
- 105) Ibid., p.90: John of Argyll was given power to receive the men of Argyll, the isles, and other 'forinsec' lands to King Edward's peace.
- 106) Cal. Docs. Scot. III, no.191.
- 107) See Duncan, Acta. The route taken by Bruce is strange; if he had been in action against Alexander of Argyll, then he had probably been in northern Argyll, and to come thence to Dunkeld via Inchmahome is illogical, unless it was a royal progress through the central part of the realm. This is unlikely, given the short space of time in which it was apparently accomplished. It is therefore possible that Bruce was coming from the Lennox area, in which he may have been in action in September.
- 108) Chron. Holyrood, p.179.
- 109) A.P.S. I, p.477.
- 110) Cf. Ross's refusal to break the truce which he had made with Bruce. (Barnes and Barrow, op.cit., p.58).
- 111) Cf. Bruce's treatment of the earl of Strathearn and Alexander of Argyll.
- 112) Barbour, Bruce II, p.204.
- 113) Ibid., p.205.
- 114) Ibid., pp.205-8.
- 115) Cal. Close Rolls Edward II, 1307-1313, p.13.
- 116) Barrow, Robert Bruce, p.247.
- 117) Cal. Docs. Scot. III, no.11: "the poor tenants [of the sherifdom of Roxburgh] have fled into England with their goods for fear of the enemy".
- 118) Chron. Fordun I, p.345 (II, p.337).



- 119) Chron. Lanercost, p.212.
- 120) Barbour, Bruce II, pp.228-30, says the force was led by Sir Aymer de St. John and Ingram d'Umphraville, who was one of the English wardens of Galloway (Cal. Docs. Scot. III, no.47).
- 121) Chron. Fordun I, p.345 (II, p.337). Donald of Islay attended Bruce's parliament in March 1309. Fordun, however, states that Edward Bruce captured him in Galloway, and it is possible that he then submitted to Bruce. The order allowing John of Argyll to receive him into Edward's peace (Cal. Docs. Scot. IV, no.1822) could well be dated 1308 or later (cf. Rot. Scot. I, p.90). See, however, Barrow, Robert Bruce, pp.231, 239, which persuasively suggests that Donald was pro-Bruce. Fordun's statement could therefore be a mistake, placing Donald and his islesmen on the wrong side of the fray.
- 122) Chron. Lanercost, p.212.
- 123) Rot. Scot. I, p.56: Macdouall received a protection to 'go to Scotland', presumably to attempt the recapture of his lands. He failed, and in April and June 1309, was given the consolation of lands in Northumbria. (Cal. Docs. Scot. III, nos.83, 84).
- 124) Rot. Scot. I, p.57.
- 125) Ibid.
- 126) Ibid., p.58.
- 127) Barbour, Bruce II, pp.240-2.
- 128) Rot. Scot. I, p.60. Rutherglen was omitted from a list of English-held castles for provisioning in the following May (Ibid., p.63).
- 129) Chron. Lanercost, p.212.
- 130) "When an opposition group clearly emerges in the spring of 1308 it is not surprising that Pembroke, Warwick and Hereford, the three earls who had benefited most from Scottish lands, were among its leaders." (Maddicott, Lancaster, p.72).
- 131) See Ibid., p.82, and Richardson and Sayles, The Governance of Medieval England, pp.466-8.

- 132) Dowden, Bishops, p.201; Watt, Fasti, p.76; and see Barrow, Robert Bruce, p.247.
- 133) Cal. Close Rolls Edward II, 1307-1313, p.120.
- 134) Rot. Scot. I, p.55.
- 135) Ibid., p.56.
- 136) Cal. Docs. Scot. II, nos.11,18.
- 137) Ibid., nos.68,69,115.
- 138) Rot. Scot. I, p.59. This reference is dated November. It is therefore fair to assume that Philip's request, which preceded it, is to be dated in October.
- 139) Rot. Scot. I, p.59: Philip IV "holds himself to be an ally of the Scots", a phrase which is strongly reminiscent of the period 1297-1303.
- 140) Ibid.
- 141) Ibid., p.60. Maddicott's statement (Lancaster, p.86) that Philip IV re-opened negotiations with the Scots "after an interval of over a decade" is erroneous. The Scots were in negotiation at the French court as late as 1303 and, as noted above, French envoys visited Bruce as early as November 1308.
- 142) Chron. Lanercost, p.213.
- 143) Cal. Close Rolls 1307-1313, p.159.
- 144) Cal. Docs. Scot. III, no.95.
- 145) Rot. Scot. I, p.60. This must have been very soon after Philip IV came over to Bruce: he gave a gift of money to John Balliol, King of Scots, on 19 April 1308 (J. Viard, (ed.) Les Journaux du Trésor de Philip IV le Bel (1940), no.5917). (I am grateful to Professor G.W.S. Barrow for this reference).
- 146) The letter cannot have been addressed to the 'community' as a whole, or more than just laymen would have replied to it. Nor can it have been addressed to the king, as he would in that case have replied in person. Most probably, it was addressed to the baronage, or some such grouping.



- 147) There is no proof (although it is more than likely) that he actually referred to Bruce as 'king' on this occasion. He certainly did so, however, in July 1309 (Gascon Register A, pp.354-5), and was addressing letters to him under that style before August 1309 (Foedera II, p.79).
- 148) A.P.S. I, p.459.
- 149) Stanford Reid, 'Trade, Traders and Scottish Independence' in Speculum 29 (1954), pp.210-22, and see especially p.220 and n.78.
- 150) Ibid.
- 151) A.P.S. I, p.460. Also in Stones, Documents, pp.[140-43] (with translation, here quoted). For full discussion of the various copies of this document see D. Hunter Marshall in S.H.R. 23 (1926), pp.280-93 and Barrow, Robert Bruce, pp.262-5 and 378-80. In contrast with the latter, I suspect that the document mentioned in A.P.S. I, p.289(col. I) was not a separate declaration by the nobility along the same lines as that made by the clergy, but is in fact to be identified with the letter to Philip IV, printed in A.P.S. I, p.459. The 'muddle in the list of signatories' is indisputable, but the close resemblance of the list (with obvious errors borne in mind) to that of the letter, and the fact that, unlike the clergy's declaration, it was addressed specifically to the French king, makes it unlikely to have been a general declaration of support. The inaccuracy of the 18th. century rubric given in A.P.S. I, p.289 is hardly surprising: it bears striking resemblance to the 17th. century rubric quoted in Barrow, Robert Bruce, p.265, and to that in A.P.S. I, p.289 (col.2), both of which inaccurately refer to the clergy's declaration. The writer of the abstract quoted in A.P.S. I, p.289 has quite simply confused the two documents.
- 152) Raine, Letters from the Northern Registers, no.119.
- 153) Rot. Scot. I, p.64.
- 154) Cal. Docs. Scot. III, no.95.
- 155) Rot. Scot. I, p.67.
- 156) Ibid., p.66.

- 157) He was appointed on 10 March 1309 (Rot. Scot. I, p.62).
- 158) Ibid., pp.79-80.
- 159) Ibid., p.80.
- 160) Ibid.
- 161) Rutherglen: see above, p.308 and n.128.  
Dumbarton: John of Menteith, its keeper, joined Bruce before the St. Andrews parliament (A.P.S. I, p.459), and perhaps handed over the castle at that time.
- 162) See Duncan, Acta, p.24, nos.4-10: 26 April, Arbroath; 1 July, Cromarty; 7 August, Loch Broom; 20 October, Dunstaffnage; 10 November, St. Andrews.
- 163) Rot. Scot. I, p.85.
- 164) Ibid.
- 165) Foedera II, pp.111-2.
- 166) Rot. Scot. I, pp.67-71, passim.
- 167) At the end of August, the muster was postponed until 28 October (Rot. Scot. I, p.71).
- 168) Ibid., p.76.
- 169) Ibid., p.78.
- 170) Ibid., p.80. See also Chron. Lanercost, p.214, where it is stated that a truce was made until early March.
- 171) Duncan, Acta, no.12 (5 March, Dumbarton), no.13 (15 April, Inchmahome), no.14 (12 June, Stirling). Unfortunately, no further acts appear until 1311, and thus doubt must remain regarding the king's movements during the second half of the year.
- 172) Rot. Scot. I, p.80. Cf. Chron. Lanercost, p.214, which states that the truce until March was extended until the following summer. Chron. Guisborough, pp.384-85, says that it was to last until the eve of St. Hilary (12 January), presumably 1311, but that it was broken by the Scots, who multa mala fecissent.
- 173) Rot. Scot. I, p.80.



- 174) Chron. Lanercost, p.214: the extension of the truce was because the English were unwilling to fight in Scotland before the summer, as they would find no food for their horses.
- 175) Scottish petitions continued to go before the English parliament (Foedera II, p.106). A Scottish patent seal was in use by Edward II as late as 1311, and English officers of state were in office (Rot. Scot. I, p.80; Cal. Docs. Scot. III, nos.123,137,138; Cal. Close Rolls Edward II, 1318-1325, p.63).
- 176) Gascon Register A, pp.359-61; Rot. Scot. I, p.83.
- 177) Cal. Close Rolls 1307-1313, p.203. Mary Bruce should have been released in March in exchange for Walter Comyn, a prisoner of the Scots. She was still in custody in July, however, when her release was again ordered, in exchange for nine prisoners (Rot. Scot. I, p.87). Perhaps Bruce refused the terms previously offered, and her release was re-negotiated. Yet another order for her release was given in February 1312, which suggests that it was the Scots who quibbled about the terms of her release (Cal. Close Rolls Edward II, 1307-1313, p.399).
- 178) Foedera II, pp.118-9; Rot. Scot. I, p.86; Cal. Close Rolls Edward II, 1307-1313, p.337; Foedera II, p.120.
- 179) Foedera II, pp.111-2: nous ne purrons en nule manere mettre suffisant conseil en noz bosoignes meismes les parties, si now ny ailloms en propre persone.
- 180) Cal. Close Rolls Edward II, 1307-1313, p.219, and many references in Rot. Scot. I, pp.82-4 and Foedera II, pp.109-15.
- 181) Rot. Scot. I, p.90. Their correct names were Toirdalbach and Murdoch.
- 182) Ibid., pp.92-3. This document is difficult to explain: the rest of the campaign went ahead, and some arrangements continued to be made for a fleet on the west coast with John of Argyll as one of its commanders (Ibid., p.93).
- 183) Chron. Guisborough, pp.385-86. See also Maddicott, Lancaster, pp.113-4.

- 184) Rot. Scot. I, p.94. The difficulty of supplying the army cannot have been helped by the severe famine affecting Scotland (and therefore also, presumably, the north of England) in 1310 (Chron. Fordun I, p.345 (II, p.338)).
- 185) Scalachronica (Maxwell), p.51. See also Cal. Docs. Scot. III, no.152: constables and other officers in Edward II's Scottish administration had been paid no money since Easter, although it had been sent north. Such inefficiency in the administration must indeed have played its part in Edward's inability to hold Scotland. Cf.also Rot. Scot. I, p.111, and Cal. Docs. Scot. III, no.186.
- 186) The place-dates are not entirely trustworthy. They give Edward II an itinerary as follows: 18-20 September, Roxburgh; 21-22 September, St. Boswells; 23-24 September, Traquair; 23-26 September, Roxburgh; 26 September, Eddleston; 27-28 September, Roxburgh; 23, 27 and 28 September, Selkirk; 1-10 October, Biggar; 6 and 13 October, Linlithgow; 14 October, Lanark; 15 October, Renfrew; 16 October, Lanark; 18-20 October, Biggar; 23-25 October, Linlithgow; 1 November, Glasgow; 4 November, Berwick (Cal. Close Rolls Edward II, 1307-1313, pp.280-5; Foedera II, pp.116-9; Rot. Scot. I, pp.94-6, 103). These dates must represent the work of a variety of scribes at various stages along Edward's route which is, despite the chronological irregularities, quite clear.
- 187) Cal. Docs. Scot. III, no.77.
- 188) Ibid., no.166.
- 189) Chron. Lanercost, p.214.
- 190) Foedera II, p.122.
- 191) Ibid.
- 192) Ibid., p.116.
- 193) Cal. Docs. Scot. III, no.177.
- 194) Cal. Close Rolls Edward II, 1307-1313, p.337; Foedera II, p.120.
- 195) Chron. Lanercost, p.214.
- 196) Chron. Guisborough, p.386.



- 197) Chron. Lanercost, p.214.
- 198) Ibid.
- 199) Cal. Docs. Scot. III, no.196.
- 200) Ibid., nos.201,202.
- 201) Ibid., no.197.
- 202) Rot. Scot. I, pp.97-105.
- 203) un des plus grandtz exploitz de nostre guerre  
Descoce: P.R.O. C/81/76 no.1883 (calendared in  
Cal. Docs. Scot. III, no.203); Rot. Scot. I,  
pp.99-100.
- 204) Foedera II, pp.128-9.
- 205) Rot. Scot. I, p.107.
- 206) Cal. Close Rolls Edward II, 1307-1313, p.324; Cal.  
Docs. Scot. III, no.190.
- 207) In September, Edward complained that goods of  
English merchants had been taken by the notorious  
Flemish seaman John Crabbe, in company with Scots  
from Aberdeen, and sold in Flanders (Cal. Close  
Rolls Edward II, 1307-1313, pp.432,436).
- 208) The clergy's declaration of 1309 was re-issued in  
February 1310 (A.P.S. I, p.460 and Stones,  
Documents, pp.[140-3]. See also n.151 above).
- 209) Foedera II, p.126. For Edward II's  
counter-submissions, see Cal. Docs. Scot. III,  
nos.194, 207.
- 210) See Maddicott's excellent discussion of this  
period, Lancaster, pp.106-20.
- 211) Rot. Parl. I, pp.281-6.
- 212) See, e.g., Rot. Scot. I, pp.105-6.
- 213) Ibid., pp.107-8; P.R.O. C81/80 no.2289 (calendared  
in Cal. Docs. Scot. III, no.223).
- 214) Rot. Scot. I, pp.105-6. This document tells of the  
great labours suffered in maintaining the king's  
rights, and of the need for reinforcements.

- 215) Ibid., p.106. This reference may lend some credence to the statement in Chron. Lanercost, p.214, that Bruce was heading for Galloway in February 1310.
- 216) Cal. Docs. Scot. III, no.204.
- 217) Ibid., no.245.
- 218) Chron. Lanercost, p.214.
- 219) See above, pp.321.
- 220) Cal. Docs. Scot. III, no.202.
- 221) See Chron. Lanercost, pp.216-7, from which the details in the following passage are taken.
- 222) Raine, Letters from the Northern Registers, no.129.
- 223) Ibid., no.128.
- 224) Ibid., nos.127,128.
- 225) Chron. Lanercost, p.217.
- 226) Chron. Fordun I, p.346 (II, p.338).
- 227) Foedera II, p.162.
- 228) Chron. Lanercost, pp.219-20.
- 229) Stones, Documents, pp.[144-5].
- 230) For a fuller account of these raids and their effects, see J. Scammell, 'Robert I and the North of England' in E.H.R. 288, July 1958, pp.385-403.
- 231) P.R.O. Anc. Corr.XLIX no.102 (calendared in Cal. Docs. Scot. III, no.279).
- 232) Rot. Scot. I, pp.221-2 (30 September 1327). A similar claim was made, however, in 1314: contra dictum dominum nostrum regem arma sumpserint, et ad demolitionem ipsius et regni sui unanimi nequitia seductore conspirarint (Raine, Letters from the Northern Registers, no.143).
- 233) Barbour, Bruce III, p.240; Barrow, Robert Bruce, reference to Duncan MS, p.360 n.1; Raine, Letters from the Northern Registers, no.221; Rot. Scot. I, pp.221-2.
- 234) Rot. Scot. I, pp.221-2.



- 235) Cal. Close Rolls Edward II, 1307-1313, pp.420-1;  
Rot. Scot. I, pp.108,109 (21 March 1312); cf.  
Ibid., p.109 (13 April 1312), which does not list  
Dundee amongst the castles for provisioning.
- 236) Cal. Docs. Scot. III, nos.281,304; Chron. Fordun  
I, p.346 (II, pp.338-9).
- 237) Cal. Close Rolls Edward II, 1307-1313, p.518.
- 238) Barbour, Bruce II, pp.269-70.
- 239) Chron. Man, pp.26-28.
- 240) P.R.O. C/47/22/10 no.11 (calendared in Cal. Docs.  
Scot. III, no.337).
- 241) Rot. Scot. I, p.111, 112; Cal. Docs. Scot. III,  
no.337; Raine, Letters from the Northern  
Registers, no.138.
- 242) Cal. Close Rolls Edward II, 1313-1318, p.66;  
Foedera II, p.223.
- 243) Cal. Close Rolls 1313-1318, pp.95,56.
- 244) Ibid., pp.83-4.
- 245) Foedera II, p.155. Sinclair's confirmation and  
consecration took place in May 1312 (Watt, Fasti,  
p.96), and he submitted to Edward II (Cal. Docs.  
Scot. III, no.301), but before long he was in the  
Scottish camp.
- 246) Cal. Docs. Scot. III, no.282.
- 247) Rot. Scot. I, pp.113-4.
- 248) A.P.S. I, pp.461-3.
- 249) Cal. Close Rolls Edward II, 1313-1318, pp.83-4.
- 250) Raine, Letters from the Northern Registers,  
no.138.
- 251) E.g. Cal. Close Rolls Edward II, 1313-1318,  
pp.570-1.
- 252) E.g. Cal. Close Rolls Edward II, 1313-1318,  
pp.7,48; Cal. Docs. Scot. III, no.252.
- 253) Cal. Docs. Scot. III, no.327.
- 254) Cal. Close Rolls Edward II, 1313-1318, p.101.
- 255) P.R.O. C/81/1705/21 (calendared in Cal. Docs.  
Scot. III, no.333).

- 256) Treason was a constant fear in Berwick in the period after 1312, when the town was under incessant threat from the Scots (e.g. Rot. Scot. I, p.113). That is hardly surprising, given the nature of the complaints about the English administration. See, e.g. Cal. Docs. Scot. III, nos.384,553, which describes the situation in Berwick after Bannockburn. They had suffered less from the Scots than from the people of Northumberland, who were enraged about the execution of men who had been convicted of plotting to betray the town to the Scots. In 1316 the situation was even more desperate. Food supplies were intercepted by the Scots, who would endeavour to take the town "by treason or otherwise" (Cal. Docs. Scot. III, no.486). Cal. Docs. Scot. III, no.397, shows the tension of the situation: two small boys who were looking outside the town for a lost 'rudiment song book' were imprisoned on suspicion of 'traficking with the Scots rebels'.
- 257) le roy de Escoce. Are we to understand that the French king was giving actual military or naval aid to the Scots? The employment of the experienced and aggressive French naval captain, Sir Odard de Maubuisson, to deliver the Declaration of Arbroath to Avignon in 1320 adds some weight to the possibility. (Vet. Mon. no.437. I am grateful to Professor G.W.S. Barrow for this reference, and for information regarding Maubuisson).
- 258) A few examples from one source serve to illustrate the point. Rot. Scot. I, p.56 (16 August 1308): Edward II plans his expedition against "Robert Bruce and his accomplices... who rise against us in Scotland"; Ibid. (20 August 1308): Robert Clifford's appointment as guardian was to "resist Robert Bruce". As early as autumn 1308, references to 'the Scots' are found, especially in trading prohibitions, but by January 1312, nuncios coming to treat for a truce were described as "those of the Scots..." (Ibid., p.108). Whilst references to 'Bruce and his adherents' do continue, they are not, as previously, in the majority. Cf. also above, p.300 (n.78).

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CHAPTER EIGHTTHE REIGN OF ROBERT I2: THE WAR WITH ENGLAND, 1314 - 1328

Edward II's expedition to Scotland in the summer of 1314 was far more than the promised aid for Berwick, Stirling and the few other beleaguered English-held castles, and more than a point of honour, upholding the agreement made with Edward Bruce in 1313. It was an attempt to win back credibility for his Scottish policy amongst his own barons and people, who were becoming increasingly reluctant to pay such enormous sums for little or no return.<sup>1</sup> It was also a last-ditch attempt to win the war by military means. The second-rate defensive measures taken since 1307 had failed utterly, resulting in the complete loss of Scotland, and of credible English claims to rightful sovereignty. Edward's only hope was to put all the might of England into an attempt to crush Scotland in one swift and victorious campaign, such as his father had carried out in 1296, which would remove Bruce from the scene, and thus deprive Scotland of her king, whose existence as a political and conceptual (as opposed to personal) force had been responsible for the loss of English control.

Edward therefore planned a campaign which would outstrip any which had previously been mounted. Men were commissioned to come from all over Edward II's domains to Berwick for the muster in early June. Fleets were to work on both coasts, and vast provision was made for victualling and supplying the army.<sup>2</sup> Fordun describes this expedition as an act of vengeance against Scotland. Totally ignoring

the Stirling castle pact, he states that Edward set out to seek retribution for the defeat he had suffered in Scotland:

"Edward II, king of England, hearing of these glorious doings of King Robert's, and seeing the countless losses and endless evils brought upon him and his by that king, gathered together, in revenge for the foregoing, a very strong army both of well-armed horsemen and of foot - crossbowmen and archers, well skilled in war-craft. At the head of this body of men, and trusting in the glory of man's might, he entered Scotland in hostile wise."<sup>3</sup>

This interpretation of events is probably very close to the mark. Edward Bruce had invited an English army to come north, but Edward II used the invitation to try to put aright all the failures of the previous seven years. With lack of both forethought and hindsight, he trusted in sheer might to end the war, and marched into Scotland in June 1314 at the head of the greatest army ever to cross the border. King Robert, in line with his policy throughout the war, recognised that this army had to be stopped from reaching the heartlands of Scotland, and, as he had done in 1310, prepared to meet it at Stirling on a site which (like that which he had chosen at Loudon Hill in 1308) restricted the enemy's movements, and thus gave Bruce the advantage of being able to plan the way in which the battle would be fought. Bruce was doubtless aware of the importance of this engagement, if it should take place. If he failed to stop the English army, it would march throughout his kingdom and undo many, if not all, of the achievements of his reign. He was not fighting to gain Stirling castle, nor just to defend his kingdom against an aggressor, but to uphold his own royal status and power, and indeed the very concept of Scottish sovereignty. The size and intent of Edward's expedition gave this engagement enormous significance.



Edward's army left Berwick only a few days before the deadline for relieving Stirling castle (24 June), and made a forced march, arriving within sight of Bruce's waiting army on 23 June, tired, hungry, and ill-prepared for battle. The conflict which followed has been described in great detail by several authors, and little would be gained by repeating such a description here.<sup>4</sup> The important point, for the present purpose, is the outcome. Before the end of the month King Edward was back in Berwick, nursing his damaged pride, with what remained of his great army straggling home as best they could. Bannockburn was a major disaster for Edward II. Not only did it put paid to his hopes of regaining Scotland, in the short term at least, but it cemented opposition to him, causing the fall of his government, and forcing him into dependence on his greatest rival, the earl of Lancaster.<sup>5</sup> The large number of high-ranking prisoners taken by the Scots (quite apart from the spoil to which they fell heir) was both a financial and a diplomatic blow to the English.

Few sources are kind to Edward II regarding Bannockburn. Fordun assigns his defeat to Bruce's reliance on God, rather than on men.<sup>6</sup> The Lanercost Chronicle states that the English army might have fared well "if only they had had the Lord as ally", but Edward's ungodly attitude and actions brought "confusion and everlasting shame" upon him and his army. He and his advisers fled the field "like miserable wretches... leaving all the others to their fate".<sup>7</sup> Sir Thomas Gray's Scalachronica likewise draws the comparison between the Scots' piety and contrition, and the English pride and arrogance.<sup>8</sup>

From the Scottish point of view, however, the importance of Bannockburn has perhaps been overestimated. Had Bruce lost the

battle, the consequences would have been far greater. It was, undeniably, a notable victory, which was a testimony to Bruce's abilities as a military leader. But its effect was less to do with military affairs than with English politics. It did not signify the end of the war, which continued along very much the same lines as in the previous few years. It did not mark Bruce's winning of Scotland, which had already been achieved by 1311. It was a successful defence of the realm against invasion, and apart from the surrender of Stirling castle, in military terms the Scots gained little long-term advantage by the battle. Had the English expedition of 1314 merely fizzled out, like that of 1310, or never taken place, like that planned for 1309, the effect would have been remarkably similar, the major difference being in the pecuniary benefit derived from the battle, and doubtless also the less tangible advantages of propaganda and prestige.

The significance of Bannockburn lies not in the battle itself, but in the fact of English failure, no matter how it occurred. The collapse of this great expedition destroyed the credibility of Edward II's military policy. Although the recapture of Scotland was, in theory, a constant aim of his government, the continuation of his Scottish administration was largely fictional, and there was little support for the expenditure of the vast sums which would be required to mount any further attempts to recover the country. The period after the failure of the Bannockburn campaign is distinguished by a total withdrawal of the English from Scotland. Bruce's campaigns were now fought not in order to secure his hold on Scotland, which was now unassailable, but to gain money, and the final goal -



recognition by the English crown of his status as King of Scots. This phase of the war had been evolving since mid-1311<sup>9</sup>, and whilst Bannockburn stands out as the sole defensive action by Bruce against the English between 1312 and the peace treaty of 1328, in itself it had little effect except to emphasise the situation which had already prevailed for upwards of two years. As noted above, Bruce in person took less part in military affairs after 1309.<sup>10</sup> His personal appearances, when they did occur, were often spectacular, and boosted his charisma as a leader<sup>11</sup>, but the fact nevertheless remains that between 1312 and 1329, the records tell us more about Bruce as a ruler than as a warrior. The war continued unabated, and was fierce and bitter at times, but its character had changed: no longer was it the desperate, bloody struggle of earlier years. Now the military action took second place to the political and diplomatic ends which it was intended to promote.

Apart from the continued reduction of English-held castles (the last of which, Berwick, fell in 1318, leaving Edward II's so-called 'Scottish administration' without even a base in Scotland), the main aim of the war after 1311 was to exert political pressure on the English throne through constant attacks on the northern counties, and, for a time, through the threatened seizure of Ireland. It was hoped that by these means the weak English government, as long as it had no hope of military recovery in Scotland, would eventually be forced to recognise Bruce's position, and sue for peace on Bruce's terms. That it took so long for this policy to work was largely the result of Edward II's apparent lack of political realism.

Within a month, the Scots followed up their victory at Bannockburn with a swift raid on northern England, penetrating as far as Yorkshire.<sup>12</sup> Early in January 1315 they were preparing another large invasion<sup>13</sup>, for which cause various barons were excused attendance at the English parliament at Westminster in that month.<sup>14</sup> The summer saw yet another invasion, which, with its siege of Carlisle, was a source of severe worry to the English king.<sup>15</sup> And so it continued. The swiftness and effectiveness of these raids foiled Edward's plans to invade Scotland again, and almost his entire war effort had to be channelled into the defence of the north. Repeatedly orders were given to muster all able-bodied men for defence, nobles were commissioned to stay in the north to organise forces, and garrisons were supplied and reinforced. The only other warlike activity which Edward II continued was the attempt at naval blockade on both east and west coasts. Fleets were constantly renewed and enlarged in a vain attempt to hinder the Scots' trading activities on the continent and in Ireland.<sup>16</sup> For Edward II, the only successful exploit of this phase of the war was the re-capture of the Isle of Man, effected in late 1314 by John of Argyll, with his fleet based in Dublin.<sup>17</sup>

The Scottish raids on the north became a standard feature of life in those parts. Except in times of truce, hardly a year passed but Scottish armies swept into England at least once, penetrating far south to the rich lands of Yorkshire, exacting heavy tribute and wreaking vengeance on those who would, or could, not pay. It has been estimated that over £20,000 was taken by the Scots in tribute between 1311 and 1329, quite apart from the considerable value of



goods, livestock and foodstuffs taken as booty.<sup>18</sup> The damage to the northern counties was, of course, far greater than mere financial loss. They suffered devastation the likes of which had never previously been known, even, in places, becoming incapable of supporting any inhabitants.<sup>19</sup> The failure of the English government to provide the financial and military resources required for effective defence gave some barons and speculators of the north a free hand, causing a collapse of law and a state of anarchy in the area. The lack of central control, leading to a complex network of local truce arrangements, left the financial organisation in chaos. Little or no money could be raised for the exchequer<sup>20</sup>, leading to further impoverishment of the crown, which was thus less able to provide defence. It was little wonder that Bruce found himself able to subjugate the north, and to at least contemplate its eventual annexation.<sup>21</sup> The greater effectiveness in the area of his royal presence than of the English king's won him some support, as did the integrity of his armies' conduct. Where a truce was bought, it was honoured; Edward II's guarantees of succour were less trustworthy. Over the years, as the raids continued, English control of the north waned. Edward II, realising that he could not hold the north himself, even contracted out the defence of Berwick to its mayor, bailiffs and community<sup>22</sup> - the 'privatisation' of national defence. The experiment was a spectacular failure: in under a year, the town fell to the Scots.<sup>23</sup>

Even by mid-1315 the north was of very mixed loyalty. The fears of treason, and the unwillingness of the Northumbrians to co-operate with English defence, finds expression in a letter of June 1315:

"Sir Robert de Bryus is in the park of Duns collecting his host either to attack the country towards York about the quinzaine of St. John or lay siege to Berwick, and as some of the people of the country are very supine in his service they [the writers] pray him [Edward II] to order a levy for its defence so that<sup>24</sup> they may be forced to act if they do not of good will".

The oppression of the people by the castle garrisons was partly responsible for this lack of loyalty: the 'poor people' of Bamburgh complained of extortion on the part of the constable of the castle, who demanded an equal sum as the Scots required for a truce, charged them exorbitant fees for the right to protection in the castle, and robbed them of provisions: "they are between the enemy on one side and the constable on the other".<sup>25</sup> The desperation of the situation in the north, and the relative indifference of Edward II towards it, caused disloyalty amongst its inhabitants. That disloyalty was

"the product of the abeyance of Edward's government which permitted the king of Scotland to wield more power in, and draw more revenue<sup>26</sup> from, the north of England than did the English king".

But Robert I's hold on the north did not only affect the allegiance of the inhabitants of that area. Edward II's relations with his own nobility were no easier in the last thirteen years of his reign than they had been in the first seven, and the failure of Edward and his advisers to find any solution to the humiliating situation with regard to the Scottish war was a major factor in the disaffection which continued to plague the reign.<sup>27</sup> Lancaster, who rose to the zenith of his power largely as a result of the king's defeat at Bannockburn, was no more successful in controlling the situation than his predecessors, which was one reason for the waning of his power from 1316. Those who followed, although more determined to fight the Scots, also failed, and the open breach between the parties in 1321,



which was sparked off by the elevation of the king's new favourites, the Despensers, was closely tied up with the situation in the north. Even earlier, the disquiet which emerged in England, with the seizure of Knaresborough castle and the attack on two papal legates, both in 1318, had involved close contacts with the Scots.<sup>28</sup>

The rebellion of Lancaster in 1321/22 received much support in the north, and the situation there made the Scots obvious allies of the insurgent barons. As early as 1319 secret negotiations were conducted with the Scots, presumably by disaffected English lords<sup>29</sup>, and late in 1321 the earl of Lancaster was accused of plotting to bring "aliens and rebels from Scotland" into the realm.<sup>30</sup> Communications certainly did pass between Lancaster and the Scots, although the extant records place them later than this accusation. Letters of Moray "supplying the place of the King of Scotland", dated at Corbridge in January 1322 gave leave to one "Sir Richard le Chapeleyn of Toppecliff" and a companion to come to speak with him. A similar letter of Douglas dated December 1321 allowed them to go to Jedburgh for talks. On 16 February 1322 Moray issued a further safe-conduct for Sir John de Mowbray and Sir Roger de Clifford, with forty men, to come to him in Scotland, which is similar in tenor to another document, probably dating from this period, allowing a party of English, with thirty horse, to come to the King of Scots at Edinburgh or elsewhere. A record of the actual pact made survives, and states that the Scots agreed "to come to our aid and go with us in England and Wales... and live and die with us in our quarrel".<sup>31</sup> Even Andrew de Harcla, the loyal supporter of Edward II who was rewarded with the earldom of Carlisle for his part in the quelling of

Lancaster's rebellion, saw within a year that the only hope for the future lay in peace with the Scots on King Robert's terms, a conclusion for which he lost his life.<sup>32</sup>

After 1323, when a thirteen-year truce was made with the Scots<sup>33</sup>, the north played a less prominent part in English politics. Other affairs were more responsible for the final débâcle which led to Edward II's deposition. But at the end, the north became involved again; it was a problem which would not disappear with the making of a truce, and which had left an indelible mark on the English political scene. Before looking at the events which led to the making of peace, however, it is necessary to go back to Robert I's other military venture, in Ireland.

The Scottish invasion of Ireland in 1316<sup>34</sup> has been variously described as "a diversion of manpower and resources which King Robert could ill afford"<sup>35</sup>, an ambitious ego-trip on the part of Edward Bruce, who found Scotland too small for both himself and his brother<sup>36</sup>, and "an answer to the military stalemate" in the marches of England and Scotland.<sup>37</sup> The invasion, as it turned out, may have been an expensive waste of manpower and resources - all unsuccessful military operations can justly be described thus - but King Robert's support for it, with the services of many men, his best commanders, and his own presence, are a certain indication of his assurance that this was a venture worthy of the expenditure of these resources. Clearly, the Irish expedition was a matter not only of military priority, but also of political importance. Bruce's letter to the Kings of Ireland in 1315<sup>38</sup> stressed the common ancestry of the two



peoples and referred to negotiations aimed at upholding the good relations between them. This letter, in conjunction with Bruce's continued interest in Ireland even after the failure of the attempt to make it a Scottish kingdom, show that this was no mere diversion of policy, but an important and consistent element of Bruce's tactics in the war.

As Dr. Frame has pointed out, the suggestion that the invasion was prompted merely by Edward Bruce's ambition is completely unacceptable. His newly confirmed position as heir-apparent in Scotland<sup>39</sup> made him a central figure in Scottish politics, in whom King Robert must have had trust. Robert I was not a man to squander resources on the flight of fancy of a restless adventurer.

It is very possible that those native Irish who were opposed to English rule invited a Scottish invasion in the course of the negotiations referred to by Robert I in his letter of 1315. They may even have promised to support Edward Bruce's attempt to win the kingship.<sup>40</sup> J.F. Lydon's thesis that the Scots' main aim was to disrupt English use of Ireland as a base for supplies and men undoubtedly carries some truth. The Irish contribution to all the major English campaigns had been considerable, and now, after Bannockburn, from his position of military superiority, King Robert could take action to destroy this constant threat. Furthermore, there had been unceasing English naval activity on the west coast, based on Ireland, since the war began. The removal of this nuisance would give the Scots more security in their trade across the Irish sea. The attacks on Man in 1310<sup>41</sup>, in 1313<sup>42</sup>, and, finally, in 1317<sup>43</sup>, are indications of the consistency of Bruce's policy towards

the west. The control of the western sea approaches was of vital importance. The assertion that the attempts to take Man were partly in order to use its resources for the Scots in the war<sup>44</sup>, is also an indication of Scottish policy in Ireland. If Bruce could control the sea, and rule Ireland and Man through his lieutenants, he could also use these lands to bolster Scotland's resources, thus reducing the disparity of wealth and power between the contestants in the war. Even after Scottish attempts to rule Ireland had collapsed, near the end of his reign, Bruce still recognised the importance of controlling the sea, minimising English gain from Ireland, and maximising trade and co-operation between the two lands.<sup>45</sup> However, these aims did not require a complete subjection of Ireland, which most of the chronicle accounts agree was Robert I's intention in sending his brother there.<sup>46</sup> There can be little doubt that this action was designed to increase the military and political pressure on Edward II, who, fresh from the defeat at Bannockburn, was in severe difficulties in England. The increase in Scottish west-coast naval activity, with the capture of Man and attacks on Anglesey, as well as an outburst of piracy in those parts<sup>47</sup>, shows a desire to divert English attention from the border counties and divide English resources, forcing them to fight on two, or even on three fronts. If Bruce did intend to annex northern England, or even merely to continue exacting tribute from it, it was in his interest to decrease the amount of military activity from which it suffered. If the subjugation of Ireland had succeeded, Bruce would have used the island, like Man, as a base from which to carry the war into Wales and central England. Certainly, the English expected Bruce to make



this use of Ireland. As early as June 1315, arrangements were made to defend the west coast against invasion from Ireland<sup>48</sup>, a fear which continued throughout that year and well into the next.<sup>49</sup> Scottish spies and propagandists were also constantly at work in Wales: arrangements were made in 1316 to arrest the Welshmen who adhered to the king's Scottish enemies<sup>50</sup>, in July 1323 Scots were captured in Anglesey<sup>51</sup>, and as late as 1327 some Welshmen apparently joined the Scots under Donald of Mar, who went over to Bruce on the deposition of Edward II.<sup>52</sup> Even in 1319, well after the battle of Dundalk, which ended the Scots' bid to subjugate Ireland, the English felt that defence of the island against the Scots was still necessary<sup>53</sup>: there must have been some fear of a renewed attempt. This English concern about Ireland and Wales belies the opinion that the Scottish invasion of Ireland was a short-lived part of Robert I's policy, inspired by unrealistic ambition.

Bruce did, undeniably, attempt to conquer Ireland. The English reaction to this, and the parallel Scottish activity in the Irish Sea and on the Welsh coast, along with the consistent Scottish policy with regard to trade and control of the western waters, makes clear his intentions in so doing. He wished to benefit, militarily and economically, from Irish resources, which would thus be denied to Edward II; he wished to control the western approaches to his kingdom, for reasons of trade and security, and to allow him to carry the war to Wales and central or even southern England; finally, a Scottish-ruled Ireland would provide the base and the manpower for this activity in England, without the necessity of arduous and dangerous marches from the north. The carrying of the war into the

south would increase the pressure on Edward II, who seemed to be largely unaffected by the plight of the northern counties, and would to some extent relieve the north of the undivided military attention which it had so far received.

The Scottish invasion of Ireland was thus an important part of Bruce's policy, taken seriously both by himself and by the English. The events of 1317 - 1318 persuaded King Robert that subjugation of Ireland was not in fact feasible, and the plans to carry out an Irish-based attack on southern England therefore never came to fruition. The fact remains, however, that Robert I's Irish policy was consistent throughout his reign, and when his military superiority and the political situation made it expedient, that policy led to the ultimately futile invasion.

The first serious overtures for a negotiated end to the war were made by King Robert as early as September 1314.<sup>54</sup> Presumably, as was to be his custom in later days, he was endeavouring to use his military superiority in the aftermath of Bannockburn to persuade the English king that to give in to Bruce's demands was the only option open to him. Bruce wrote to Edward II, "saying that what he wishes most in the world is complete accord and amity", and asking for safe-conducts for four envoys (Neil Campbell, Roger Kirkpatrick, Robert Keith and Gilbert Hay) to enter England for negotiations.<sup>55</sup> The necessary conducts were duly given, and Edward II,

"knowing of the peril to the soul and body, and the damage to good done by war, and of the profit which is brought by peace and accord between Christians",



appointed his own envoys to meet the Scots, with power to treat for either a truce or a final peace.<sup>56</sup> Edward's action had been encouraged, like earlier truce negotiations, by pressure from King Philip IV of France.<sup>57</sup> Thus, while the profitable business of exchange of prisoners was being carried out in the last quarter of 1314<sup>58</sup>, the first negotiations for a permanent peace were undertaken.<sup>59</sup> These negotiations may have taken place in two stages, the first in Durham and the second in Dumfries<sup>60</sup>, but they were in any case abortive. By 26 November the English envoys had returned empty-handed, and there were reports that the Scots were again preparing to invade the north.<sup>61</sup> It is not inconceivable that the discontinuance of the talks was connected with the death of Philip IV, news of which reached England by 15 December.<sup>62</sup> By early January all talk of peace vanishes from the records, and preparations for defence continued. No details of the course of these negotiations are extant, other than the bare fact of their failure, but it is safe to assume that they, like all those that followed, foundered on the issue of recognition of Bruce's status as a king, and of his land as an independent kingdom. Perhaps the collapse of these talks is indicative of the fact that although Edward II was in a very weak position, the situation was not such as would persuade him to make an unfavourable peace. Unlike 1327/28, the military situation in late 1314 was not as hopeless as one might have expected. There was some feeling that the English position could still be regained by military means: in contrast with the opinions expressed by many modern historians, Bannockburn was not regarded by either side as an end to the war.

The next attempt at negotiation (other than for short truces, which were signed and broken fairly frequently), was in the spring of 1316, when conducts were given for a Scottish embassy to come to Lancaster for negotiations for a truce or peace. The commission to the English envoys explicitly recognises the national nature of the war, and implicitly acknowledges Bruce's de facto leadership of the Scots: the quarrel was "between us [Edward II] and our subjects, and Robert and the men of Scotland and his other adherents".<sup>63</sup> It should be noted that these negotiations took place during the Scottish attack on Ireland, and at a time when an assault on Berwick and a large-scale invasion of England were planned.<sup>64</sup> A truce was signed<sup>65</sup>, but it had expired or been broken by August.<sup>66</sup> It is unlikely that there were any serious peace negotiations at this time, in view of the low-key nature of Edward II's negotiating team.

In the late summer of 1317, two cardinals were sent to England in order to proclaim a truce announced by the pope, and to conduct talks for "perpetual and solid peace and concord".<sup>67</sup> Pope John XXII continued in his relentless vituperations against Bruce, although perhaps his willingness to acknowledge that Bruce did 'govern Scotland at present' marks a slight softening of his attitude.<sup>68</sup> The cardinals never actually reached Scotland themselves. Having been attacked and robbed on the way, in an ambush in which Scots, English 'dissidents', and the earl of Lancaster were all in collusion<sup>69</sup>, they sent envoys to Bruce, who received them<sup>70</sup>, and re-affirmed his position as stated in 1314 that he wished above all to establish a firm and permanent peace. But he would not negotiate with the cardinals whilst they refused to address him as king, a title which



he was accorded by other kings, as well as by his own people. These nuncios, facing this firm answer, were unable to negotiate further with Bruce (whom, in their letters, they described as 'lord king'), and claimed that they did not know what his terms would be if negotiations could take place. The cardinals eventually left England in August 1318, having achieved little or nothing.<sup>71</sup> Clearly, unless it was to his diplomatic advantage, Bruce was not prepared to accept any intervention by third parties.

In March 1318, perhaps in connection with the papal initiative, Edward appointed envoys, and gave safe-conducts for a Scottish embassy to treat for truce or final peace in Berwick.<sup>72</sup> This set of negotiations also followed and coincided with vigorous Scottish action in the field. In the summer and autumn of 1317 serious damage had been inflicted upon the northern counties, and Randolph had been preparing his attacks on Man and Anglesey.<sup>73</sup> Within a month of the start of the negotiations in March 1318, Berwick was taken, and in the early summer Durham and Yorkshire were again subject to heavy raids.<sup>74</sup> No comment remains regarding the progress made in these talks, if they ever actually took place.

Further negotiations for a truce or final peace were held at the end of 1319, resulting in a two-year truce being agreed upon.<sup>75</sup> Although no permanent peace was established, it is possible that these were at least intended to be more meaningful discussions. The envoys were of higher rank than some previous (the bishop of Ely, Edward II's chancellor, the earl of Pembroke, Hugh Despenser the younger, and Bartholomew Badlesmere on the English side, and William de Soulis, Robert Keith, Roger Kirkpatrick, Alexander Seton, William

Montfichet, William of Yetholm, John Mandeville and other clerks for the Scots), and the talks may have continued even after the truce agreement was reached. Immediately prior to this set of negotiations, Edward II had made an abortive attempt to conduct a campaign in Scotland, first laying siege to Berwick. The Scots had contemptuously retorted with a counter-invasion, compelling another English force under the archbishop of York and the bishop of Ely to strive to defend the north, a task in which they miserably failed, being routed in the celebrated 'Chapter of Myton'.<sup>76</sup> Even after the first safe-conduct for Scots negotiators was issued on 24 October, there was a devastating raid on northern England<sup>77</sup>, which caused Edward to lift the siege of Berwick and retire to York. Once more, negotiations for peace came at a time of extreme military inferiority for Edward II.

The two-year truce signed in 1319 included a clause that further peace negotiations would take place. Accordingly, in September 1320 English envoys were sent to the marches, and arranged a meeting with the Scots for early February 1321.<sup>78</sup> Again, there was both French and papal involvement in these negotiations<sup>79</sup>, and the English embassy was very impressive, the thirteen-man team including one archbishop, three bishops, two earls, and several other prominent barons and clerics.<sup>80</sup> The Scots also sent a not inconsiderable embassy, numbering up to fifty persons.<sup>81</sup> Great hope appears to have been pinned on these talks, which took place at Bamburgh in March and April, perhaps because, for the first time, they were not conducted under the immediate threat of military action. The 1319 - 1321 ceasefire appears to have been held reasonably well; the English



records suggest that Edward II wished at all costs to keep the truce, and on several occasions he ordered observance of its terms.<sup>82</sup> The remarkable series of letters between Edward and his negotiators which have survived from these talks<sup>83</sup>, give an idea of how they proceeded. Apparently one of their difficulties was English disorganisation. Several of the English deputation were delayed or unable to attend, the papal and French envoys were late in arriving, and the information upon which the English case was based, the Great Roll of Andrew de Tange, was not available to the English negotiators until the earl of Richmond (an eleventh-hour replacement in the English camp) arrived with it. He did not leave London until 26 February, eight days after the talks should have started. The tone of Edward II's letters is of near-desperation. The talks had to achieve at least a lengthening of the truce: the English situation, deep in the civil strife which finally erupted later in the year with Lancaster's rebellion, did not allow Edward II to risk a re-commencement of hostilities. The Scots, however, appear to have been intractable. After causing "long delays", they displayed little to substantiate their avowed desire for peace, and would agree only to a lengthy truce. The English ambassadors wished to consult Edward II before agreeing to this, and the talks were thus postponed until September. The prospect of only an extended truce, with no guarantee of peace to follow, must have dismayed Edward II, whose crown was weak and lacked support, whose exchequer was dry, and whose military resources were sadly depleted. The Scots had apparently played on this weakness to push for too favourable a settlement, causing dead-lock in the negotiations. The English envoys must also have felt frustrated by

this failure. Much time had been wasted, and some at least of the embassy did not even receive reimbursement of the expenses which they had incurred on the mission.<sup>84</sup>

The planned resumption of talks in September 1321 finds no place in written record, perhaps having been forced into second place by the heightening civil tension in England. The talks which were held between the Scots and the earl of Lancaster in late 1321 and early 1322 were treasonable political talks, aimed in the first instance at procuring military aid against Edward II. It is not known what terms Lancaster offered Bruce in return for his help, but in any event, these did not purport to be peace negotiations with the primary purpose of ending the war, and as such do not merit discussion here.

At Christmas 1321 the existing truce expired, and almost immediately the Scots, in accordance with their agreement with Lancaster, crossed the border.<sup>85</sup> Probably as a result of this invasion a commission was given (at the same time as Lancaster was holding discussions with the Scots) to Andrew de Harcla to treat with Bruce for final peace and concord, or for a truce, and to certify the king of what was discussed. It is noteworthy, in the light of future events, that the commission included no date of expiry.<sup>86</sup> In the mean time, after Lancaster's rebellion ended, preparations went ahead for another large expedition against the Scots<sup>87</sup>, by which Edward II yet again hoped "to acquire a final peace".<sup>88</sup> War continued throughout 1322. Harcla was ordered to defend the march against a renewed Scottish invasion in June<sup>89</sup>, and there was an abortive English invasion of Scotland in August. It reached Edinburgh, but then retreated, starving, to be followed by a Scottish force which



routed the English in a skirmish at Byland in Yorkshire, forcing Edward II to flee for safety from Rievaulx, abandoning his baggage train as spoil for the enemy.<sup>90</sup> Perhaps as a result of this embarrassing incident, Harcla began to lose patience with his king.

It is not known whether Harcla carried out any negotiations with the Scots under the terms of his commission, but the complete incompetence of Edward II's rule in the north caused no little frustration. Even loyal supporters of the English king could see no profit, and considerable loss, in the futile policy of continuing the war in the same fashion as had been so patently unsuccessful for many years. Before the end of 1322, therefore, Harcla conducted negotiations for peace with Robert I, "on behalf of all those in England who wish to be spared and saved from war with Robert Bruce and all his followers".<sup>91</sup> For this deed, Harcla was attainted for treason and executed, an act of manifest injustice which was reversed (as far as it could be) under Edward III.<sup>92</sup> Harcla did hold a royal commission to treat with Bruce, despite Edward II's protestations to the contrary<sup>93</sup>, and although the treaty undoubtedly overstepped the bounds of that commission, he did not in the treaty withdraw his allegiance to Edward, but rather indicated his intention to persuade his king of the profit for both realms to be obtained by it. Its treasonable nature lay in the fact that it was made in Harcla's own name. Had it run in the king's name, then it could have been regarded as a form of draft treaty which, under the terms of Harcla's commission, could have been presented to Edward II for acceptance or rejection. Harcla's treaty was to remain in effect, however, even if Edward II did not accept it: therein lay both the treason, and the

broadest hint that Edward could hope to receive that many of his most loyal supporters were at odds with his totally unproductive Scottish policy. The terms of Harcla's treaty were remarkably similar to those of the final peace made in 1328, and Harcla claimed, undoubtedly sincerely, that his treaty was in the best interests of both kingdoms. That he lost his life for this action is more than just an example of Angevin wrath: it is a sign of the insecurity and desperation of Edward's situation. Harcla's fate is also probably indicative of the nature of politics in northern England. It is very possible that Harcla's downfall was at least partly the work of an opposing faction of northern magnates, who resented his insertion into their midst in a rank above that to which his background, in their view, entitled him. If that is the case, the national struggle was not the true cause of his disgrace, but merely a convenient backdrop for his carefully stage-managed removal.

Within a few months Edward II again bowed to the Scots' undeniable military superiority, and acceded to Bruce's request for further peace negotiations.<sup>94</sup> He somewhat high-handedly began the negotiations by granting a truce to "the Scots", and not to Bruce, much to the Scottish king's annoyance.<sup>95</sup> Bruce retaliated by demanding that Edward change the wording, and grant his envoys safe-conduct quickly, as he would not be in the south of his kingdom for long.<sup>96</sup> Edward complied<sup>97</sup>, and although he continued anti-Scottish diplomatic activity in Flanders<sup>98</sup>, and prepared to defend his realm against the invasion which, in typical fashion, the Scots were preparing to mount if the negotiations failed<sup>99</sup>, he nevertheless arranged talks at Newcastle for a final peace. Again,



peace eluded them, but on 30 May at Bishopthorpe, they agreed on a truce to last thirteen years from the end of the existing truce (13 June). It is noteworthy that Edward II no longer claimed any authority in Scotland: the truce was between

"us [Edward II] and the people of England, Wales Gascony and Ireland on one side, and the nuncios of Scotland<sup>100</sup> and the land and people of Scotland on the other side".

This implies a unity among the Scots, and acknowledges Bruce's power to represent them. It accords to Bruce the same relationship with the Scots as Edward II had with the English - all that is lacking is the title 'king'.

In its fairly complex terms, this truce clearly paved the way for a final treaty. It restored remarkably normal relations with regard to trade and commerce, border law, and non-aggression, and dealt with some of the issues covered by the 1328 peace. There seems to have been real hope that this truce could turn into a permanent peace. It was, initially at least, upheld, and there are many references in the English records to actions taken "according to the terms of the truce".<sup>101</sup> Even after the signing of the truce negotiations continued for a final peace, and Edward (following the truce agreement) asked the pope that the Scots should receive absolution during the negotiations.<sup>102</sup> Conducts for a further Scots embassy were issued in July, August, September and November 1324, in which month the bishop of St. Andrews, the earl of Moray and six others went south. The English negotiating team (up to twelve in number) was high-powered, closely resembling that which concluded the final peace in 1328.<sup>103</sup>

Edward II's enthusiasm for peace at this stage can be largely explained by other influences. He was embarking on a war against France in Gascony, for which an army was being raised throughout the second half of 1324. In connection with this, he sought treaties and good relations with many countries, including Spain and Norway<sup>104</sup>, and the last thing he wanted was a renewal of hostilities in the north. A reference from March 1324 to actions which took place "lately, during the time of the war between the king and the Scotch rebels"<sup>105</sup>, indicates that Bishopthorpe was regarded as more than merely another ceasefire: Edward II seems genuinely to have believed that a secure peace could grow out of it.

A similar attitude seems to have prevailed in the Scottish camp. Robert I's willingness to send further embassies to Edward II, and renewed Scottish activity in the papal curia, betray a sense of hope. The Bishopthorpe truce allowed the Scots to seek relief from the penalties imposed on them by the papacy, without English hindrance. This was a major step forward, and almost immediately Moray went to the curia on this mission<sup>106</sup>, which met with a considerable degree of success. Moray apparently put it to the pope that it would be in the best interests of peace to address Bruce as King of Scots, an argument which was accepted. Because he wished fervently to find peace, and in order that negotiations should suffer no hindrance, the pope agreed to accord Bruce the kingly title, which neither increased his right and honour, nor decreased Edward II's.<sup>107</sup> The English king was of course furious that the pope had thus acceded to Bruce's most fundamental demand<sup>108</sup>, but was nonetheless willing to continue with the 1324 negotiations. They were, however, a failure. Again, the



Scots would not shift from their demand for recognition of sovereignty. This can be surmised from Edward II's account of the negotiations, which he says failed because the Scots offered nothing new, and stuck to the demands to which he would not accede, since they involved "manifest disinheritance of our royal crown". The Scots had, furthermore, refused to submit to papal arbitration, and had voluntarily abandoned the talks.<sup>109</sup> Their intransigence must have been based on certain knowledge that their position was the stronger, that they had increasing support, and that eventually Edward II, who could not afford a continuing war, would have to submit.

Edward's hopes for peace thus suffered a set-back in early 1325. They suffered again in the autumn when the Scots, doubtless wishing to stress their superiority, in frustration at the deadlocked negotiations, broke the truce and invaded in the north-east.<sup>110</sup> In the spring of 1326 the Scots were again threatening castles in the marches, having apparently attempted to take Carlisle, Norham, Alnwick, Dunstanburgh, Wark and Totness.<sup>111</sup> Edward II professed to believe that the rulers of Scotland were ignorant of these incidents, and continued to uphold the truce, but it can hardly have been beyond his imagination to see a connection between these furtive attacks and the Franco-Scottish diplomatic activity which led in April 1326 to the renewal of a mutual aid alliance, signed at Corbeil.<sup>112</sup> This was a new diplomatic and military lever for Robert I in his quest for a settlement of the English war. Edward II now had powerful allies opposed to him both to the north and to the south. He may well have intended to start negotiations with the Scots again, but events

overtook him, and the nearest he came to doing so was a plan, never fulfilled, to accede to Bruce's demands in return for help against Isabella and Mortimer<sup>113</sup>, who invaded England in September. Before long Edward II was a prisoner, and early in 1327 he was deposed and his son, Edward III, was crowned king in his place.

Edward II's deposition papers included the charges that he had "lost the realm of Scotland through default of good governance", and that he "gave up his land", causing great harm to befall the realm and its people.<sup>114</sup> The most basic faults in a king, that he had not upheld the rights and status of his crown, nor defended his realm against enemies, proved the downfall of Edward II. The Scots war had played a more than significant part in that downfall.

Some of the first actions of Edward III and his 'counsellors', Isabella and Mortimer continued Edward II's policy of upholding the Bishopthorpe truce.<sup>115</sup> Before long, however, bowing to the pressing need for security, they also started further negotiations for peace.<sup>116</sup> These negotiations started with Edward III's own ratification of Bishopthorpe<sup>117</sup>, and later in the spring (30 April) a more high-powered embassy was appointed, very similar in its personnel to that which conducted the final talks in 1328, to treat for "the reformation of peace and concord between us and our faithful subjects on one part and Robert Brus and others of Scotland on the other".<sup>118</sup> These commissions were returned to chancery, apparently unused, but nevertheless indicate a willingness to treat seriously for peace as late as the end of May 1327, when "twelve persons of Scotland of whatever status or condition" were to come to Bamburgh for negotiations, under a safe-conduct (also returned to chancery)



lasting until mid-June.<sup>119</sup> These arrangements for the negotiations aimed at finding a final peace had originally been made under Edward II's name<sup>120</sup>, but during the period of his arrest, before Edward III's coronation. This probably indicates the policy of those who deposed him. They blamed him for losing Scotland, but nevertheless wished to put an end to the war which, in the short term at least, they recognised could not be won, and was therefore little more than a colossal waste of resources.

These early negotiations by the new administration could be seen merely as nominal adherence to the principle of peace. However, the appointment of the influential negotiating team in April 1327 gives the new government a more sincere appearance: one membrane on the unprinted membrane of Rotuli Scotiae<sup>121</sup>, ordering the leaders of the English fleet to put no obstacle in the way of the negotiators, indicates a genuine desire to find a suitable settlement. Even later, in mid-June, another attempt was made: a yet larger embassy was appointed, to negotiate with one hundred Scots coming south for talks.<sup>122</sup>

Bruce, however, following what had been his consistent policy since 1314, used the weakness of the English political situation to try to force a peace settlement. Banking upon the fact that "one reason why the nation had fallen completely away from support of Edward [II] was that it was weary of political strife"<sup>123</sup>, Bruce gathered a large army and threatened invasion should the talks fail.<sup>124</sup> The sincerity of the threat had been emphasised early in February by a provocative attack on Norham.<sup>125</sup> The original talks had been set for 24 May, but as early as 5 April the English

government knew that Bruce had ordered "all the power of Scotland" to gather on the march on the day of the talks, so that if peace could not be obtained quickly, on his terms, he could mount an immediate invasion.<sup>126</sup> Clearly, Bruce hoped that the threat of invasion, and perhaps even of Scottish annexation of the north<sup>127</sup>, so near the beginning of the new reign, would force the English to capitulate, and give him peace on his own terms. But the new English government, wary of its reputation, was unwilling to risk criticism by being so obviously humiliated at the hands a long-standing enemy. They therefore raised a large counter-invasion force, and prepared to show strength against the Scots. The obvious military preparations on either side of the border created such a mood of suspicion in the talks, that they disintegrated, as soon as they began, and by 17 June the Scots had invaded.<sup>128</sup>

In early July the English king came north from York, and the armies dodged around each other in Northumberland for a month. They came face to face in the early days of August, but apart from a daring raid on the English camp which almost resulted in the capture of Edward III, there was no engagement, and the Scots disappeared by night, much to the annoyance of the English king, who had hoped for a decisive battle.<sup>129</sup> This raid was a complete humiliation for Edward III's government. The English army had been totally outmanoeuvred by the Scots, to the extent that a handsome reward was offered for any who could lead the English force to within sight of the enemy.<sup>130</sup> Unable to do more, the English army was disbanded.<sup>131</sup> Edward III moved his administration to York, until the Scots war was settled<sup>132</sup>, and called a parliament to discuss the issue.<sup>133</sup> Before it met,



however, Bruce, newly arrived back from a further campaign in Ireland<sup>134</sup>, personally led another invasion of Northumberland, during which he made a successful assault on Norham and granted Northumbrian lands.<sup>135</sup> An effort was made to raise another army to combat this new invasion, but it was futile. The continuation of the hopeless Scottish war could only further weaken the English government, and in early October this fact was recognised by the appointment of ambassadors to treat for peace.<sup>136</sup> After an initial acceptance by Edward III of the Scots' suggested basis upon which the discussions would proceed<sup>137</sup>, several rounds of negotiations took place, resulting in March 1328 in a formal quitclaim by Edward III, for himself and his heirs and successors, of all rights in Scotland sought by him or his predecessors. Just over two weeks later, a far-reaching peace treaty was signed at Edinburgh.<sup>138</sup> The war, for the meantime, was over.

The foregoing description of the war of Robert I's reign has shown how the unity of the state was vital in such a struggle, and how confidence in the leader and belief in the justice of his policy and his position were necessary in order to bring about this unity. The Scots' success was dependent on a belief that the right of the nation to be self-reliant and free from exterior domination was at the core of the struggle. Once Bruce had achieved the end of winning majority, and eventually almost universal, support in Scotland, he, as king, became a symbol of that belief. That this was truly a national struggle, rather than a personal or dynastic affair, is emphasised by the threat of the community, expressed in the

Declaration of Arbroath, to remove Bruce from power should he fail in his duty to maintain the realm's sovereignty. The Declaration of Arbroath is propaganda, and as such may be subject to suspicion. The description of the interview between Bruce and the envoys of the papal legates in 1318<sup>139</sup>, however, reinforces the idea that the war was founded upon the policy of the community, rather than merely that of the king: it is stated that when Bruce wished to speak to the envoys, he was dissuaded from doing so by his council, because they saw communally that the lack of a royal title was the result of English propaganda.<sup>140</sup>

The strength of resistance put up by the guardians and the removal of John Balliol from direct power in 1296 were manifestations of the same phenomenon: the protection of the kingdom and its rights were not the duty or prerogative of one man, but the function of the community. Defeated in war, that community had been eclipsed, or had at least lost its direction in 1304. However, with the clear policy expressed by Bruce, and his rooting out of those of the Scottish community who stood against it, the idea of the nation became the focal point of the community's concerted policy. Using Bruce and his charismatic leadership as their spearhead, they eventually forced the disunited, and therefore largely ineffective, English opposition to bow to their demands. Military ineptitude, financial and administrative disorder and chronic civil disunity deprived the English of both effective leadership and the concept of a 'national cause', so vital in the quest for domination.

A deeper insight into the nature of the war can best be gained by a study of the justifications given for it. The perpetual



medieval quest for peace and Robert I's claim to desire peace above all things have already been mentioned. How then, did he justify waging war for twenty-two years, earning for himself and his followers repeated censure and excommunication, and subjecting his kingdom and its people to the grievous devastation of prolonged warfare? Bruce's, and the community of Scots' own justification for this conduct is to be found only in the propaganda which they issued, and to some extent in the terms which they demanded for peace. The propaganda, albeit frequently a gross distortion of the truth, nevertheless reveals the Scots' own concept of their cause, and of their situation. It reflects the way in which they decided to promote their policy and to justify their actions and view of events.

Looking firstly at the Declaration of the Clergy issued in 1309<sup>141</sup>, we find a blatantly propagandist attempt to express clerical support for King Robert. On more than one occasion, Edward II was prepared to receive to his peace those Scots who wished to withhold allegiance to Bruce because of the fear of excommunication.<sup>142</sup> Any victory in medieval times was regarded as 'God-given'; the victory at Bannockburn, as has been noted above, was described in these terms even by English chroniclers. Thus, to persuade would-be adherents that the cause enjoyed the support of God, and of his representative on earth, the church, was essential in the creation of the all-important national unity and in the diplomatic activity aimed at securing foreign aid. If Bruce could claim the backing of the church, it would give his rule and his cause a status and a prestige far higher than that of the usurper and rebel Edward II would name him.

The document is fairly short, displaying none of the ancient history, rhetorical logic and legal reasoning of, for instance, the Processus of Baldred Bisset. It takes up the story from the disputed succession, claiming that through the power of evil Balliol was chosen to be king in 1292 in the face of the belief, held by all, that Bruce had the better claim. Much harm thus befell the kingdom, with Balliol's downfall, the reasons for which are not specified. He had failed in his rôle as king, and had left his people exposed to oppression and ruin. A divine remedy was required, which was found in the form of the grandson of the Bruce claimant, whom, guided by God, the people of Scotland chose to be elevated to the throne. He was made king by their authority, and held all qualities required of a king. He won the land from its oppressors, and was in the true tradition of the older kings. The document rejects any alternative version of the story, claiming that the submissions quoted by the English were void because they had been extorted by force. It ends with a re-affirmation of Bruce's rightful kingship and of the clergy of Scotland's support for him.

The underlying theme, and the most basic explanation and justification of the conflict, is obviously that English domination of Scotland is unjust, and has no rightful basis. This much had been a constant thread in all such writings since the reign of Alexander III. However, the declaration bears a particular relevance to the period in which it was written, and relates its story in a way specifically suited to countering the weaknesses of King Robert's situation in 1310. The greatest problem which he faced in proving his right to rule was the embarrassment posed by the existence of



John Balliol. In 1301, the Scots' cause had been that of Balliol, upon whose restoration the kingdom's independence rested. No objection was raised as to his legitimacy. In 1310, however, the situation was different, with Bruce at the head of a new and fairly insecure régime, in a land where doubtless some still believed in Balliol's right to rule, and others followed the temporarily dominant political trend of subjection to England. To justify Bruce's position at the head of this warring nation, the Balliol episode had to be explained away. Thus, in contrast to earlier propaganda, the emphasis on Edward I as the only villain of the piece shifts to include Balliol. Edward I's evil unjustly promoted Balliol to the throne, but Balliol's own failure is blamed equally for the oppression of the realm. By thus discrediting Balliol, the Scots justify their new version of the story, claiming that earlier ones were inspired by the misguided desire to re-establish Balliol's rule. This is the first reference to the idea that Balliol was unjustly chosen to be king by Edward I, who knew that Bruce was the rightful king. It is also, and hardly co-incidentally, the earliest surviving justification of Bruce's position. The need in 1309/10 was not primarily to obtain military help against Edward II, since in that sense Bruce was in a comparatively strong position - certainly stronger than the guardians had been in 1301 when Bisset took his Processus to the pope. What Bruce sought above all in 1309/10 was recognition. This declaration is thus pitched more specifically in favour of Bruce and his position than it is against Edward II. The justification of the war itself is completely entwined with Bruce's kingship. The divine guidance which led the people to choose him

also led his arm in war, which was thus not only just, but also divinely inspired.

The Declaration of Arbroath<sup>143</sup> was produced ten years later, in 1320, when Bruce was almost universally recognised as king, and was in undeniable control of his kingdom. He had, in effect, won the military war against England, being able, as we have seen, to force Edward II to the negotiating table through military domination. It could only be a matter of time before the recognition which the Scots sought was wrested from the English. The papacy, however, in the figure of John XXII, was in vehemently anti-Scottish mood. Four Scottish bishops were ordered to answer charges at the curia. They refused to attend, and in June 1320 they and the king were excommunicated again.<sup>144</sup> But even before this, in April, the community of Scots had written to the pope in support of the king, and in justification of their actions of the past quarter century. In so doing, they behaved exactly as the English king and barons had done when faced with similar papal opposition in 1300/01. Papal support implied a spiritual content in kingship, and lent greater religious authority to a régime. It was difficult, even given the backing of the national church, to claim divine leadership and God-given right, when faced with consistent and fierce opposition from the religious leader of Christendom. The Declaration of Arbroath, like Bisset's Processus, is thus directed specifically at the pope, and is couched in terms calculated to win his support. The two documents are different in approach, of course, because of the different contemporary situations. Now, instead of claiming to be a papal fief, which had been Bisset's way of eliciting support against



English overlordship, the Scots were strong enough in 1320 to offer the pope aid in the planned crusade in return for his support, and were even confident enough to lay down as his responsibility the bloodshed which would ensue if he did not command the English to put an end to the war. This document is written from a viewpoint of strength and confidence: it is far from the portrait of the weak, helpless and defenceless people to be found in earlier propaganda.

The Declaration of Arbroath stresses the origins of the Scots. It is noteworthy that the origin myth used is different from that propounded in 1301, the 1320 version placing more emphasis on the prowess, glory and power of the Scots, who are pictured almost as a chosen race. The lineage of one hundred and thirteen kings, "the line unbroken by a single foreigner" is included to highlight the legitimacy of the ruling dynasty, a new feature in Scottish propaganda. Never before had the concept of an unbroken line of kings been so explicitly stated, except in the inauguration ceremony itself. The passage which deals with the events of the 1280s and 1290s is very short. It makes no specific mention of Balliol, who was by now an irrelevance to Bruce; John had died by May 1315<sup>145</sup>, and the military weakness of England left his son in no position to make a bid for Scotland, even if that had been consistent with English policy. There is a brief reference to Edward I coming in the guise of a friend, to act like an enemy. The tone of this passage is again different from earlier works, in that it presents Edward not as the cruel oppressor of a weak nation, but as a barbaric enemy whose lust for blood and power the Scots encountered righteously and manfully. The Scots, according to the declaration, assented to Bruce's rightful

kingship, who bore stoically the hardships of the struggle. It is to him that the salvation of the land is due, and for that reason, as well as the divine providence which gave him the right to be king, the Scots must stand by him, as long as he continues to fulfil his kingly functions. Should he fail to do so, he would be cast out.

This document places remarkably little emphasis on justifying Bruce's kingship. His right is taken for granted: the lineage, and the divine providence are obvious. The attitude to Balliol is interesting. As a candidate for the throne, he is ignored: Bruce's rule was under no threat from him. The community, however, had to justify their change in stance. Only twenty years previously, they had sought restoration of, and had sworn undying loyalty to, quite another supposedly legitimate king, apparently now abandoned. Thus reflecting the increased awareness of a theoretical basis for the monarchy which was one of the effects of the war, they stated that should the king refuse to do his duty (by implication, as King John had done), they would depose him and choose another.

In the Declaration of Arbroath, therefore, the Scots clearly reflect the change in their position from 1310. By 1320 they had stepped forward into a confident situation where Bruce could ignore Balliol, and the community could explain their policy with regard to the monarchy clearly and concisely. The reference to Edward's oppression is brief, and the Scots could threaten the papacy with retaliation. They paint the picture of a 'just war', and blame the bloodshed on the pope's inaction. The message is that Scotland is independent, and will remain so. The idea of the papal fief was now totally unnecessary: in 1320 the Scots sought not relief, but



recognition, respectability and peace, so that trade could flourish, and money and lives no longer be wasted in a futile war, in order that the country could be re-established in the strong and prosperous condition of the 1280s. The justification of the war is the same as previously: English domination is unjust, tyrannical and ungodly, removing the liberty "which no good man would give up, unless with his life".

The Scots case used at the futile negotiations held at Bamburgh in 1321<sup>146</sup>, whilst far longer and more rhetorical than the Declaration of Arbroath, nevertheless bears the same salient features. Perhaps largely based on Bisset's Processus<sup>147</sup>, it follows the style of that document, including drawn-out rhetorical passages on earlier history, and long-winded legal arguments. Although more detailed, this document's version of the events of 1286 to date is entirely consistent with that of the Declaration of Arbroath. It contains less in the way of justification of the community's stance, since this is not their declaration of support for Bruce, but the royal case, in use directly against Edward II's.

These propaganda documents can be seen to fit very closely their own time and circumstance. Each one closely represents the requirements which led to its composition. The rhetoric, the partisanship, and the sheer untruth of some of their assertions, do not discredit them as historical sources. They were written as propaganda, in an attempt to achieve a political purpose which, in effect, remained constant between 1296 and 1328. The best means of achieving that purpose varied according to when and how it was under discussion. Thus propaganda documents of different dates are widely

at variance with each other. They tell us, therefore, how the Scots viewed their own political situation at any given time. It is only in these documents that we find the Scots writing about themselves, and thus only through them can we find out what they thought. For example, by comparing the propaganda of 1320/21 with that of 1301, one finds a greater emphasis on the election of kings by the people, and on the unity of the people behind their leader, who, it is stressed, is divinely inspired and upheld. This demonstrates that throughout the war there was a strengthening in the community of the feeling of political and causal oneness. The Scots became, in their own minds, a single people, fighting a single enemy. In other words, a major result of the war was a resurgence and intensification of the concept of nationhood. These documents contain practical expression of political theory, and one can see in them the growing self-awareness which was so large a part in the development of political identity in the medieval realm.

The political pressure which the protracted war exerted on Scotland forced the Scots into explicit articulation of constitutional theories. As Bruce's position had to be justified and clarified, so the expression of political ideas became more distinct, and the ideas themselves developed and became more lucid. Thus, for example, by the end of the period, the need for a monarch to have the consent of his people as well as dynastic right, and the idea of unity behind the king, are much more clearly expressed than at the beginning.

In justifying their war and their support for their king, therefore, the Scots defined the basis of their realm's political



structure: the relationship of king and community. They also, for the first time, drew a clear distinction between patriotism and support for a dynasty or personality, and although a sense of nationhood can rightly be said to have existed in Scotland for some time before 1320, the first practical expression of that idea dates from that year, and it is thus to this period that we must assign the Scots' own ascription of that status to themselves.

One of the Scots' major justifications of the war was, ironically, their desire for peace. In the Declaration of Arbroath they asked the pope to command Edward II to "suffer them to live at peace". They could not do so in freedom because of his aggression, and so had to fight a self-defensive war. In 1301 Bisset had pleaded with the pope to help put an end to the English aggression so that "the men of Scotland might continue in their accustomed manner, in devotion to God, to you, and to the Roman church, and to be strong to fight for peace".<sup>148</sup> Until persecution stopped, there could be no peace. Therefore they fought for recognition of their king, in order to put an end to the persecution. Bruce himself, as is noted above, claimed to wish for peace above all other things. A study of the terms sought in peace negotiations might help to ascertain the sincerity of this claim, and may also back up what the propaganda tells us regarding the justification of the war.

The first of the sets of negotiations for which more than very vague details remain is that which resulted in the two-year truce signed in 1319.<sup>149</sup> The truce evidently included clauses, at the request of the Scots, that further negotiations, aimed at peace, should be carried out, and that the castle of Harbottle on the border

should be either handed over to the Scots or destroyed, if no permanent peace was made. This indicates that Bruce did have a genuine desire for peace, but also that he saw its achievement only through military pressure. The upsurge of military activity which seems to have heralded and followed almost every set of negotiations for peace has been alluded to above, and the arrangement regarding Harbottle is consistent with this. Bruce wished to have peace, but was realistic enough to seek some military gain, should his hope prove unfounded.

The 1321 negotiations have left few records, other than the propaganda cited above, and the letters between the English king and his envoys, which complain about Scottish intransigence.<sup>150</sup> Once again, the only certainty is that the Scots insisted upon the sovereignty of their realm and king - probably the only demand to which Edward II was not prepared to accede.

The treaty made between Andrew de Harcla and Bruce in 1323<sup>151</sup> is interesting because of the similarity of its terms to those of the final treaty made in 1328: peace, independence of both kingdoms, recognition of Bruce and his successors, payment by Bruce of forty thousand merks<sup>152</sup>, and marriage of the heir-male of Scotland. Bruce's only major demands were for the recognition of Scotland's independence and of his crown's royal authority. The other terms were fairly generous, again reflecting a real wish to establish peace, and indicating that it was not straightforward malice which prolonged the war. Bruce was prepared to back up his military pressure with payment, if his demands would be met, and this fact corroborates the propagandist statements regarding the justification



of the war. Lasting peace could only be found through an end to English claims of dominion over Scotland.

In the same year, the official truce made at Bishopthorpe<sup>153</sup> was undoubtedly intended to clear the path for a final peace. Again, the process was initiated by Bruce at a time when Edward II was under severe pressure. Its terms included non-aggression, cessation of castle-building in the marches, safe-conduct to Scotland for Scottish ships forced into English ports, free passage of merchants and envoys, and freedom for Bruce to seek absolution from the papacy. These terms do not touch on the underlying causes of the war, and ignore the one really contentious issue. However, they show what both kings wished to obtain from peace: advantages in trade, communication, international relations, and security. In this truce, many of the more mundane points at issue between the countries were ironed out, so leaving space for discussion of the remaining problems. It is noticeable that the terms of this truce were much more favourable to Bruce than were those of the final peace. For peace, he was prepared to pay heavily. For a truce, which he could force on the English through military action, he could afford to be more unbending. It is probably fair to say that whereas Robert I, in the end, bought peace from Edward III, at Bishopthorpe Edward II paid dearly for a truce from the Scots. This reflects the needs of the two kings: Edward II required military security, whilst Bruce required final settlement of the basic issues in dispute.

By January 1324 the pope clearly recognised that the way to find peace was through compliance with Bruce's demands for recognition<sup>154</sup>, and even as early as 1320, in his response to the Declaration of

Arbroath<sup>155</sup>, he indicated that only through mature negotiation and settlement of the main issue could peace be found. In his letters to the English king at the same time<sup>156</sup>, he exhorted Edward II to think of the benefits of peace, not only for England and Scotland, but also for the whole world. In a phrase which shows a clear understanding of the situation, he urges Edward to make peace "between your kingdom and the kingdom of Scotland"<sup>157</sup>, and made reference to Bruce as "the ruler of Scotland".<sup>158</sup> It seems possible that even before the Declaration of Arbroath the pope was tiring of Edward II's head-in-the-sand approach, and realised that only through formal approval of Bruce's situation would peace be found.

The disaster of Weardale persuaded Edward III and his government that no military victory was possible. It also persuaded them of the futility of truces, which, it seemed, merely existed in order to be broken. In effect, they at last acknowledged that peace could only be achieved through the settlement of the root causes of the war - the point which the Scots had been making for many years. The Scots' keenness for peace (and their hurry, given the severe illness of Robert I) made them give generous terms to the English king in return for recognition of Scotland's independence and of Bruce's status as king, and for a quittance of all claims to dominion over Scotland. That the English at last gave in on this point was realistic, and a sign that they too genuinely wished to secure peace. The quitclaim was given, and the other demands (including a mutual striving to lift papal censure) were met. In return, Bruce paid £20,000, and agreed to a marriage between his son, David, and Edward III's sister, Joan, with a suitable dower for Joan in Scotland. Only the matter of those



of both realms who had been disinherited in one or other of the kingdoms because of their war-time allegiance was left unsettled.<sup>159</sup> But this was not sufficient to disrupt the proceedings. Both kings gained what they wanted in 1328: for Edward III it was security and peace; for Robert I it was recognition.

The end of the war, for Robert I, was its justification. The recognition which he gained from Edward III was a testimonial to the strength and validity of his kingship. For Bruce, once he had become king, could not relinquish the concept of his total authority over Scotland. To accept any higher secular authority would be to negate his kingship. The Declaration of Arbroath, which, although in the name of the community, must have been at least approved by the king, was most specific on the point. The king who did not uphold the fundamental liberty of the kingdom would be cast out. Balliol, who failed in this task, was removed from power, the community subjecting him to their dictate. The notion of a vassal kingdom, whilst it cannot have been unknown in Scotland, certainly played no part in the Scots' own constitutional self-analysis. The most basic duty of the king was to protect the kingdom and its people from oppression or subjection. Alienation of any part of the possessions or rights of the crown were regarded in the same light. To fight against English domination was thus Bruce's duty as a king. Once the community had accepted his kingship, it was equally their duty to support him, and direct him in the struggle. The Scots' belief in the status of their kingdom was their justification for the war.

The conflict arose because England and Scotland held the same theories in this respect. In 1320, notaries public who claimed

imperial authority were declared inadmissible in England: "our kingdom of England is immune from all imperial subjection, and from the beginnings of the earth has been separate".<sup>160</sup> Notaries who acted by imperial authority, implying that it was a higher authority than the crown, were thus acting to the disinheritance of the crown, and were a danger to the kingdom. Edward II, as has been noted above, was charged with having lost Scotland. He had allowed the alienation of rights and possessions of the crown. The two sides thus fought from the same standpoint, both claiming the immutable rights of their crowns as their justification for the dispute. The eventual Scottish victory was the result not of the any greater success by the Scots in proving their right, but of their strength, as against the English kingdom's weakness.

That strength, however, was not only military. In a manner of speaking, the war was won by the Scots because of the effect it had on them. When Bruce made himself king in 1306 his motives may well have been little more than those of an adventurer - personal ambition, and the desperate need to justify his act of sacrilege in the Greyfriars church of Dumfries. Having become king, however, he had to make good his claim and fulfil his responsibilities to those who accepted him as their lord. To do so, he required to be master of all Scotland. He could not carry out the duties of a king if he did not rule the land. The first years of his struggle were thus spent in fighting to win over the community of Scots. By 1310 he had largely done so: most Scots who opposed him were by then in exile, and no longer a part of the community. The years after 1310, encompassing the great victory at Bannockburn and the beginnings of



his domination over the north of England, made firmer his hold on the community and their increasingly unified support for him. His success increased not only his personal power and prestige, but also that of the 'crown' as an abstract entity. The rôle of the monarchy in war was to lead. The more successful the lead, the greater the unity behind the leader; the king thus had more power to wield, and a following which was ever more ready to accede to his wishes. The result was a strengthening of the status of the crown in the realm - the exaltation of kingship. This is demonstrated by the way in which Bruce's somewhat awkward constitutional position was so succinctly justified in the later years of his reign. In 1306, Bruce received a luke-warm reception from the community. His claim to be king, when John, in whose name he had been a guardian only a few years before, was still alive, was a little shaky. By 1310, however, and even more strikingly in 1320, the community was prepared to defend King Robert's right to the throne against any gainsayers, even going to the extent of re-writing recent history in order to do so. This was not merely personal support for Bruce, the charismatic leader: it reflects the status of the kingship which he represented. His right, which stemmed from both heredity and the community's assent, was of fundamental importance to the status of the realm, to the protection of which the community was dedicated, even to the point of war.

The community itself also increased in strength throughout the war. The realm's reliance on the community for stable rule in the periods of guardianship had done much to strengthen the concept and rôle of the community. It had been largely eclipsed, however, in 1304, and in 1306 was weak and hopelessly divided. Once Bruce had

worked to re-create the community in the early years of the war, it was able to regain the status which it had enjoyed at the end of the previous century. The precedents for rule by the community could not be ignored, and gave that body a prominence and status higher than it had in many European countries. As the war required a strong king, it also required a strong community, and so the increasing power of the king was matched by a corresponding growth in the part played by the community. Their rôle as advisers of the king, and the control which they could exercise over him, have already been noted. This strengthening of the central government helped to rebuild the nation out of the depths of the war. The economy revived, and as the war progressed successfully, the nation became more determined, as well as stronger, leading it eventually to victory.

This picture may be contrasted with that of England in the same period, where weak royal rule and factionalism amongst the community seriously reduced the status and effectiveness of both. Divided loyalties destroyed any unity of purpose, and any chance of military success. Government, justice and economy all failed. The victory of the Scots was not only military: it was the victory of a strong ideology over a weak, of a powerful sense of national unity over internecine strife and demoralisation.

This is not to say that Scottish nationhood was itself a new product of the years 1306 to 1328. It had been developing for many years. The confident, assertive kingship of Alexander II and Alexander III, whose reigns were remembered as a 'golden age', had bolstered the strength of the crown. Their work in defining the boundaries of the kingdom, particularly in the west, had helped to



create an increasingly cohesive unit, with a strong central government. Alexander III's refusal to do homage to Edward I for his kingdom in 1278 emphasised this sense of cohesion, and the separate identity which is the hallmark of nationhood. The ease with which the guardianship was established at a time of constitutional crisis in 1286 is another testimonial to the unity of spirit which had grown in Scotland during the previous generations.

Thus Bruce, as he made his bid for kingship, had a strong tradition on which to build. After a period of weakness in 1286-1306, the monarchy could again re-assert itself as in the thirteenth century. The community had the strengths of guardianship upon which to build. The exaltation of these two elements, and their coalescing to uphold and reinforce the nation can be most clearly seen in the propaganda. The Declaration of Arbroath encapsulates the height and power of both king and community. Both were then at the peak of their power, and working together with a unity of purpose and a self-awareness which brings to light the concept of the medieval realm at its most powerful. The war did not end until 1328. The Scots had emerged from it long before that. Certainly by 1320, and perhaps even by 1310, the exaltation of both king and community which had been largely the result of the war had intensified the sense of nationhood, creating a unity which gave the kingdom a new effectiveness in its quest for independence.

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NOTES

- 1) See, e.g. Raine, Letters from the Northern Registers, no.133. Already, in May 1312, the northern clergy were refusing to give Edward II a further subsidy for the Scottish war.
- 2) For preparations, see passim., Rot. Scot. I, pp.114-27; Foedera II, pp.237-50; Cal. Close Rolls Edward II, 1313-1318, pp.36-56. For a description of the armies, see Barrow, Robert Bruce, pp.290-8.
- 3) Chron. Fordun I, pp.346-7 (II, p.339).
- 4) See Barrow, Robert Bruce, Chapter 12; J.E. Morris, Bannockburn; W. Mackay Mackenzie, The Battle of Bannockburn.
- 5) See Maddicott, Lancaster, pp.160-1.
- 6) Chron. Fordun I, pp.346-7 (II, pp.339-40).
- 7) Chron. Lanercost, pp.224-8.
- 8) Scalachronica (Maxwell), p.331.
- 9) See above, pp.326-27.
- 10) See above, p.316.
- 11) See, e.g., Barbour's description of Bruce's part in the winning of Perth (II, pp.222-7).
- 12) Rot. Scot. I, p.129.
- 13) Ibid., p.135.
- 14) Ibid., p.136.
- 15) Ibid., p.148.
- 16) E.g. Ibid., p.139. For continued Scottish trade see Ibid., pp.135,136; Cal. Close Rolls Edward II, 1313-1318, pp.218-9; Cal. Close Rolls Edward II, 1318-1323, p.132.
- 17) Cal. Docs. Scot. III, no.420.
- 18) See Scammell in E.H.R. 288 for details of these raids.



- 19) See, e.g., Raine, Letters from the Northern Registers, pp.200-350, passim for a graphic description of the devastation. Also, e.g., Cal. Close Rolls Edward II, 1318-1323, pp.16-7.
- 20) See, e.g., Cal. Close Rolls Edward II, 1318-1323, p.40.
- 21) See above, pp.329-30.
- 22) Cal. Docs. Scot. III, no.554.
- 23) Cal. Close Rolls Edward II, 1313-1318, pp.538-9.
- 24) Cal. Docs. Scot. III, no.440.
- 25) Ibid., no.463.
- 26) Scammell, op.cit., p.403.
- 27) For a neat synthesis of this question, see M.H. Keen, England in the Later Middle Ages, Chapter 3; for a fuller discussion, see Maddicott, Lancaster, Chapters 5-8, passim.
- 28) See Maddicott, Lancaster, pp.205,207.
- 29) Raine, Letters from the Northern Registers, no.177.
- 30) Cal. Close Rolls Edward II, 1318-1323, pp.505-6.
- 31) Ibid., pp.525-6; Formulary E, no.55.
- 32) For Harcla's treaty, see below, pp.372-73.
- 33) Foedera II, p.521.
- 34) It is unnecessary to repeat here an account of the course of the Irish venture, which has been fully described, with various interpretations, by several authors. See, e.g., J.F. Lydon, 'The Bruce Invasion of Ireland' in Historical Studies IV, pp.111-25; Nicholson, Scotland: The Later Middle Ages, pp.92-6; Barrow, Robert Bruce, pp.339, 434-6; R. Frame, 'The Bruces in Ireland, 1315-18' in I.H.R. 1974, pp.3-37.
- 35) Barrow, Robert Bruce, p.339.
- 36) Barbour, Bruce III, p.79 (and see pp.79-110, 122-135, 189-94, for his account of the invasion); Chron. Fordun I, p.348 (II, p.340), discussed in Frame, op.cit., pp.6-7.

- 37) Nicholson, Scotland: The Later Middle Ages, p.92.
- 38) R. Nicholson, 'A Sequel to Edward Bruce's Invasion of Ireland' in S.H.R. 42, pp.30-40, at pp.38-9.
- 39) A.P.S. I, pp.464-5.
- 40) Frame, op.cit., p.4. Using the Scottish analogy, it is possible that the Irish were persuaded that only by electing one king could they achieve the unity which was required to defeat the English.
- 41) See above, pp.321-22.
- 42) Chron. Man., pp.26-28.
- 43) Cal. Docs. Scot. III, no.562.
- 44) Foedera II, p.122.
- 45) Cal. Docs. Scot. III, no.922.
- 46) Chron. Lanercost, p.230: 'the Scots' were responsible for the invasion, intending to subjugate the island. Chron. Walsingham, p.154: Robert Bruce sent an army to Ireland under his brother Edward, to occupy the land. Chron. Meaux, p.333: Edward Bruce went to subjugate Ireland.
- 47) Cal. Docs. Scot. III, nos.451,549,562.
- 48) Cal. Close Rolls Edward II, 1313-1318, p.186.
- 49) Ibid., p.253; Rot. Scot. I, p.159, in which men of Wales, Nottingham and Derby are excused attendance in the planned expedition to Scotland in order to defend their homelands against the Scots.
- 50) Cal. Rot. Pat., a.r.9 Edward II, p.80.
- 51) Cal. Close Rolls Edward II, 1323-1327, p.2.
- 52) Cal. Docs. Scot. III, no.953.
- 53) Cal. Close Rolls Edward II, 1318-1323, p.59.
- 54) Most previous talks had aimed only at truces or ceasefires of a temporary nature. There are no details of the 'peace' negotiations of 1309 (see pp.317-18 above), but they certainly bore no fruit, and are unlikely, so early in the war, to have had any chance of providing a foundation for real peace.



- 55) Rot. Scot. I, p.131.
- 56) Ibid., pp.132-3.
- 57) Ibid., p.133.
- 58) Ibid., p.134.
- 59) The Scots embassy was enlarged to six, and their conducts were extended until Christmas (Rot. Scot. I, p.134).
- 60) Raine, Letters from the Northern Registers, nos.150,153. Also, note that Robert I issued a document in Dumfries on 10 December 1314 (Duncan, Acta, no.38).
- 61) Raine, Letters from the Northern Registers, nos.150,153.
- 62) Foedera II, p.258.
- 63) Ibid., p.286; Rot. Scot. I, p.154.
- 64) Cal. Docs. Scot. III, no.486.
- 65) Ibid., no.490.
- 66) Foedera II, pp.295-6.
- 67) Ibid., pp.317-8.
- 68) Ibid., pp.320-1.
- 69) See Maddicott, Lancaster, pp.204-5, and sources cited there.
- 70) Foedera II, pp.340-1.
- 71) Ibid., p.372.
- 72) Rot. Scot. I, pp.179-80.
- 73) Cal. Docs. Scot. III, no.562.
- 74) Ibid., nos.599,602.
- 75) Foedera II, pp.409-12.
- 76) For Edward II's expedition, see, e.g., Rot. Scot. I, pp.200-2. For the Scots' counter-invasion, see Ibid., pp.203-4. For the 'Chapter of Myton', see Raine, Letters from the Northern Registers, nos.184,193.

- 77) Rot. Scot. I, pp.203,203-4.
- 78) Foedera II, pp.434,435,438-9,440-1.
- 79) Ibid., pp.435,442,438,443.
- 80) Ibid., p.441.
- 81) Cal. Docs. Scot. III, no.722.
- 82) Foedera II, pp.416,434,448,456; Cal. Close Rolls Edward II, 1318-1323, p.297; Cal. Docs. Scot. III, no.713.
- 83) Stones, Documents, pp.[146-53]. For background and discussion, see Linehan, Spanish Manuscript.
- 84) Cal. Docs. Scot. III, no.139.
- 85) Cal. Close Rolls Edward II, 1318-1323, p.514; Foedera II, pp.474-6.
- 86) Foedera II, p.473.
- 87) Ibid., pp.474-6.
- 88) Ibid., p.481.
- 89) Ibid., p.489.
- 90) Ibid., p.498.
- 91) For text of treaty, see Stones, Documents, pp.[154-7].
- 92) Cal. Docs. Scot. III, no.941; Cal. Close Rolls Edward III, 1327-1330, p.404.
- 93) Foedera II, p.502.
- 94) That it was Bruce who made the first move is made clear by Ibid., p.521.
- 95) Ibid., pp.510,511.
- 96) Ibid.
- 97) Ibid., pp.511-13.
- 98) Ibid., p.513.
- 99) Ibid., p.512.



- 100) Text of agreements: Ibid., p.521.
- 101) Ibid, pp.533,556: nos, volentes treugas inter nos et homines de Scotia initas in omnibus observari.....
- 102) Cal. Docs. Scot. III, no.867.
- 103) Foedera II, pp.561,570,577-8,578.
- 104) Ibid., pp.586-7,590.
- 105) Cal. Close Rolls Edward II, 1323-1327, p.71.
- 106) He passed through England in August 1323 (Foedera II, p.533).
- 107) Foedera II, p.541. The last phrase paraphrased above is full of significance for the papal policy over the previous years. It comes close to admitting that privately the pope had always recognised Bruce's kingship, but had been unwilling to do so publicly for fear of antagonising England. This letter also indicates the pope's hope that the truce and the talks which followed could be the basis for a lasting peace.
- 108) Ibid, p.549.
- 109) Ibid., p.595.
- 110) Ibid., pp.609-10.
- 111) Ibid., pp.626-7; Cal. Docs. Scot. III, nos.882,883. Totness (Foedera II, p.627), a fortalice in the custody of Zouche, does not appear to survive, even as a place-name, in north-eastern England.
- 112) A.P.S. I, p.XII.
- 113) Chron. Lanercost, p.256.
- 114) Foedera II,p.650.
- 115) Ibid., p.689.
- 116) Ibid., p.695.
- 117) Ibid., p.696.
- 118) Rot. Scot. Edward III a.r.1 (P.R.O. C71 no.11), mem.10. Not included in the printed edition, as the membrane is marked vacant quia restituta fuerunt.

- 119) Ibid.
- 120) Ibid. It is interesting to note that the peace was to be between Edward II and Robert Bruce ac eorum subditos, a rare official recognition of Bruce's de facto rule over Scotland. See also Foedera II, p.649.
- 121) Rot. Scot. Edward III a.r.1 (P.R.O. C71 no.11), mem.10.
- 122) Ibid., mem.7 (again, marked vacat). This commission added to the previous group the abbot of Rievaulx, John Delisle and Richard of Embleton.
- 123) B. Wilkinson, The Constitutional History of Medieval England, 1216-1399 II, p.163.
- 124) Rot. Scot. Edward III a.r.1 (P.R.O. C71 no.11), mem.7; Rot. Scot. I, p.211.
- 125) Chron. Lanercost, p.258.
- 126) Foedera II, p.702.
- 127) See Rot. Scot. I, pp.221-2. He is reported to have taken and held Norham, to have built peels, and granted away the lands of Northumbria to his supporters.
- 128) Rot. Scot. I, p.214. For a different account of this period, see R. Nicholson, 'The Last Campaign of Robert Bruce' in E.H.R. 77 (1962), pp.233-46, which seems to blame this hostility on Scottish fear of the English government: "the security of Scotland, which seemed to have been guaranteed by the truce of 1323, was jeopardised by the sudden change of government in England". This argument cannot stand in the face of the wording in the documents. The war was still very much alive in 1326-27, with Bruce in an undeniably superior position. He had nothing to lose, and all to gain, by exerting pressure on this weak English government. Professor Stones' assertion that "it has never been clear why this attempt [to negotiate in early 1327] led only to war" is extraordinary ! (Stones, 'The Anglo-Scottish Negotiations of 1327' in S.H.R. 30 (1951), pp.49-54).
- 129) Foedera II, p.712. For a more detailed description of the campaign, see R. Nicholson, 'The Last Campaign of Robert Bruce' in E.H.R. 77 (1962), pp.233-46; Barrow, Robert Bruce, pp.357-9; R. Nicholson, Edward III and the Scots, pp.20-36.



- 130) Foedera II, p.717.
- 131) Ibid., p.713.
- 132) Cal. Close Rolls Edward III, 1327-1330, pp.160-1.
- 133) Foedera II, p.712.
- 134) See discussion in Nicholson, Scotland :The Later Middle Ages, p.218.
- 135) See above, pp.329-30.
- 136) Rot. Scot. I, p.223.
- 137) For the six points proposed by Bruce, see Stones, Documents, pp.[58-60].
- 138) Ibid., pp.161-70.
- 139) Foedera II, pp.340-1. See also above, p.367, n.70.
- 140) videntur communiter subtractionem tituli regii esse per Anglicos, in Scotorum vituperium, procuratam.
- 141) This version of the document, although a repeat of the declaration which came from the 1309 parliament, exists in the original, and is therefore more trustworthy than the 1309 versions, which only remain in late copies. The difficulties regarding the circumstances in which the 1310 version was issued need not concern us here: it is a genuine document of the period, clearly attempting to express, with whatever degree of honesty, the backing of the national church for Bruce. The edition cited is Stones, Documents, pp.[140-3].
- 142) E.g. Cal. Close Rolls Edward II, 1318-1323, p.280.
- 143) A.P.S. I, pp.474-5.
- 144) Raine, Letters from the Northern Registers, no.185; Cal. Papal Letters II, pp.191,199.
- 145) Rot. Scot. I, p.143; see also R.C, Reid in Dumfriesshire Trans., ser.3, no.35 (1956-7), pp.38-9.
- 146) See above, pp.369-71.

- 147) Its structure is similar, and some phrases are repeated almost verbatim.
- 148) Chron. Pluscarden I, p.218.
- 149) See above, pp.368-69.
- 150) See above, p.370, n.83.
- 151) See above, pp.372-73.
- 152) Over £26,500 - considerably more than agreed in 1328.
- 153) See above, pp.373-74.
- 154) See above, p.375.
- 155) G. Donaldson in S.H.R. 29 (1950), pp.80-1.
- 156) Foedera II, pp.431-2.
- 157) inter regnum tuum et regnum Scotiae.
- 158) regentem Scotiae. Cf. Raine, Letters from the Northern Registers, no.185, where even before the Declaration of Arbroath, Bruce is described as nobilem virum Robertum de Brus, regnum Scotiae gubernantem.
- 159) For this question, and a detailed account of the negotiations, see Barrow, Robert Bruce, pp.360-9, and Stones, 'The English Mission to Edinburgh in 1328' in S.H.R. 28, pp.121-32, and Stones, 'An Addition to the Rotuli Scotiae' in S.H.R. 29, pp.23-51.
- 160) regnum nostrum Angliae ab omni subjectione imperiali sit immune, & ab origine mundi extiterit alienum (Foedera II, p.423).

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## CHAPTER NINE

### THE REIGN OF ROBERT I

#### 3: THE ADMINISTRATION OF THE REALM

Many commentators of the reign of Robert I have concentrated solely on his successful defence of the kingdom's independence<sup>1</sup>: his fame seems to rest entirely upon his military acumen. However, the ability to defend the realm, although of undeniable importance, was not the only ingredient of successful kingship. The preface to Regiam Majestatem names

"two things necessary for a king, arms to overcome his enemies, and laws to rule his peaceful subjects.... The king's majesty should not only be made glorious by military power... but should also be strengthened by laws... so that, alike in peace and in war, our illustrious king, who rules over this realm and who has no superior but God... may with such felicity conduct himself and govern the realm committed to his charge by God that by the might of his strong right hand he may crush the insolence of the violent and unruly and with the sceptre of equity may moderate justice to all humble and obedient folk, and may thus all the days of his life be victorious in subduing his foes and be recognised<sup>2</sup> as a just and impartial judge in governing his subjects."

This was, of course, the picture of an ideal world - the dream of a constitutional theorist. But it had its roots in the facts of political life. In reality a king could not rule by the sword alone. The contract which existed between a king and his people forced him to uphold certain elements of the realm's dignity. One, as has been amply demonstrated, was the freedom from foreign domination. Another was equity of justice, and the right of each man to live freely and comfortably, according to his station. The Great Seal of the kingdom

exemplifies this point: one side shows the king on horseback, wielding sword and shield; the other shows the king enthroned, bearing the sceptre, embodying authority and justice. Fordun displays the same attitude in his judgemental comments about kings: those who gained his praise ruled equitably and justly, as well as victoriously, and brought profit to the realm. This was no mere theoretical fantasy; it was reflected in the expectations of the governed. In 1309 the "community of Scotland" (or at least a pro-English section of it) supplicated Edward II that the conditions of the peace granted in 1304 should be observed.<sup>3</sup> That peace, and the ordinance for the government of Scotland which followed it, were concerned with the administration of the kingdom, not just its defence. In 1312 the men of various Scottish sheriffdoms complained of, and pleaded with the English king to remedy, the tyrannical behaviour of their local officers, who acted against "the common law of the land".<sup>4</sup> A case which came to Edward II's court in July 1312 regarding the inheritance of those who were under age in 1304, which clearly accepted the settlement of 1304 as the status quo, referred to women who were "born and baptised in Scotland, as proved before the chancellor of Scotland by its laws and customs".<sup>5</sup> To these people, as their lord and ruler, Edward II was bound to do justice. In peace and war he had an obligation to administer the realm justly, for the profit of all.

This fair administration did not merely extend to the settlement of disputes between his subjects: the making of laws to govern their future actions, his tutelage of the realm's economy, his support for the church and its teachings, and his willingness to rely on good



counsel were all essential elements in the basis of the king's power within his realm. If the king's administration was seen to benefit the realm as a whole, then justice could take its part naturally in the maintenance of peace. If obedience to the king was in the interests of all, then those who acted against his peace were the enemies of all, and would receive their just deserts with the approbation of the people at large. Without the support of the community, which had to be won by good government, as well as by warlike achievement, a king, no matter how good his intentions, had no means of establishing his authority. Thus, in Alexander III's reign the unrighteous would "put a rope round their necks, ready for hanging, were that his will and pleasure, and bow themselves under his rule". That king based his leadership not on the sword, but on firm and prosperous rule, on the equal "fear and love" with which he was viewed, and on the "security in steadfastness of peace and quiet" which his reign achieved.<sup>6</sup>

Robert I claimed Alexander III as his last royal predecessor<sup>7</sup>, and had thus to model his own government on the worthy example of that much eulogised king. A study of the peaceful rule of Robert I will show how the king's position in the realm had changed in the eventful course of the forty years since Alexander III's death.

That Robert I began the establishment of his administration at the earliest possible moment can hardly be doubted. The evidence, however, is scanty; we know much more about his warlike exploits than about his appointment of officials. Certainly by October 1308<sup>8</sup>, and probably a good deal earlier, Bernard de Linton had been appointed

chancellor, and the issuing of acta as early as May 1307 implies that within a few months of his return to Carrick Bruce had established a functioning chancery. The chamberlain was appointed before March 1309.<sup>9</sup> The extreme paucity of Scottish record material for the early years of the reign make it impossible to tell exactly how the sheriffs were treated, but there is no doubt that he continued to be the most important local official. It seems likely that as Bruce gained control over an area, any sheriff who did not come to the king's peace was replaced. The early signs of Bruce's awareness that he must control the land and its revenues if he was to gain the kingdom, make it inconceivable that the establishment of a loyal network of local officers was not a matter of the utmost priority. Certainly, by 1317-18, reference to the sheriffs of the kingdom was commonplace<sup>10</sup>, amply demonstrating that they were taken for granted as the indispensable local tier of government. Not enough sheriffs' names survive from the early part of the reign to allow any assessment of how many continued in office from the days of Edward I's rule, but if other aspects of Robert I's policy are to be used as a model, it seems probable that those who readily came to his peace would retain their positions.<sup>11</sup>

Evidence for the effectiveness of any part of Bruce's administration in the early part of his reign is scarce. Only by examining the king's few 'acts of government' in these years, and occasionally by reading between the lines of the English documentation can any gauge be made of the efficiency of his rule. For example, the king's granting of charters in May 1307 and in March, August and November of 1309<sup>12</sup>, implies more than merely the



existence of a functioning chancery. It also indicates that there was an administration capable of making effective the grant of lands, and that the king had gained control, military, fiscal, and administrative. When the English lost their hold of an area, as they did, for instance, in the north-east in 1308, they lost its revenue. That revenue was then gathered by the Scottish administration which was the means of holding the land once gained. Bruce's control over the kingdom rested more on his holding the land and its revenue than its castles, and so it was an essential feature of his attempt to take the realm that he had an organisation capable of administering the land as soon as it fell under his sway.

Bruce's authority in the kingdom also involved the granting of land which had been forfeited by enemies to his own faithful supporters. The Register of the Great Seal contains many charters of land in most parts of the country which was granted in this way. Thus when Bruce became militarily dominant in an area, within a relatively short time he could be assured of the active support of those who held the land, which was thus more receptive to his rule, allowing the speedy establishment of an effective royal administration.

Similarly, Bruce's attempts to keep open trade routes, and his encouragement of, for instance, the French connection, implies a financial organisation capable of channelling the revenue thus gained to the needs of government. The war was expensive: references later in the reign<sup>13</sup> make it clear that the crown had been severely impoverished during the last few decades. What revenue by way of trade came into the kingdom (and also what goods left it) must have

been subject to strict regulation. Thus, far from there being little or no central control over the kingdom, a state which one might expect to have prevailed at such a time, it is probable that there was in this period a great degree of centralisation in government. It is impossible to prove this on the strength of the available material, but a sign of it may be found in the increased royal control over the western seaboard of the kingdom. Alexander III was largely responsible for bringing this area to recognise Scottish sovereignty. King John made an attempt to convert this nominal rule into actual control by introducing royal officers into the area.<sup>14</sup> Robert I created a new sheriffdom of Argyll<sup>15</sup>, and even established, in the later years of his reign, a royal castle at Tarbert on the Kintyre peninsula.<sup>16</sup> His firm dealings with the lords of Argyll in the war ensured his control over the area, and whilst details are few, it seems probable that Robert I was the first Scottish king to make good his authority over the west coast of the kingdom.

The exchequer records from the end of the reign, and the other surviving documentation, show the administration of the realm, both in terms of fiscal activity and inheritance of land, to have proceeded as fully as in previous reigns, and in a manner which shows great continuity with the past.

The fundamental importance of justice in the rôle of the medieval king makes an examination of Robert I's judicial organisation and activity basic to any study of his government. At least Robert Keith had been appointed justiciar between the Forth and the Mounth by 1310<sup>17</sup>, and although the names of other justiciars do not appear to have survived, it can hardly be doubted that, when



possible, others were appointed. The earl of Moray's position as 'king's lieutenant' north of the Forth<sup>18</sup> may also have been an interim arrangement until more permanent provision could be made.<sup>19</sup> These few references give us only a hint of the judicial organisation under Robert I, but it is enough to reveal that, as with the other instruments of government, the system was established early in the reign, and followed much the same pattern as had previously existed.

The justice dealt out by these royal officers was also little different from times past: the war had scarcely any effect on the complaints of one man against his neighbour or lord. Inquests were heard to assess the legality of claims to land<sup>20</sup> and other rights, and their results were retoured to chancery, in order that appropriate action could be taken by the king.<sup>21</sup> Appeals against miscarriage of justice found their way through the system to receive royal attention: justiciars were ordered to bring the parties and the court process to the royal court for a hearing to re-examine the false judgement given by Henry, serjeant of Colliston, in a case regarding land-holding in the north-east.<sup>22</sup> Although specific cases do not survive in written record, there can be no doubt that criminal justice - theft, murder and the like - figured just as largely in the courts of Robert I's reign as under any other king. His legislation<sup>23</sup> makes this clear, referring to theft, debt, and generally to both civil and criminal actions.

The second of King Robert's statutes (after the confirmation of the rights and liberties of the church) ordered that justice was to be carried out equally to poor and rich alike "according to the ancient laws and liberties properly used in times past".<sup>24</sup> Another

two acts state that "no-one be a conspirator nor inventor of tales or rumours through which matter of discord may spring between the lord king and his people", and that if any noble or 'great man of the kingdom' has a complaint against another, he shall not raise discord between them (as had been done after the death of Alexander III), but should conduct his case "according to the laws of the land".<sup>25</sup> The latter statute was made in order to "promote good will among the nobles and maintain peace among them and the people". Any who did not adhere to it would be punished as "a breaker of the king's peace". These acts remind us that the judicial system was geared, as well as to every-day affairs, to the control of the nobility by the crown. Mention has been made of the crucial rôle of the community (largely composed, in effect, of the nobility) in the maintenance of Scottish sovereignty throughout the war. The self-importance which must have accompanied this elevation in status during the absence of a king, had to be tempered by Robert I in order to create the unity necessary to win the war. That the nobles should live by the law, and at peace, was important for the independence of the realm as well as the well-being of its inhabitants.

Most of the dealings between Robert I and his nobility of which we have record were concerned with his treatment of those who were, or had been, opposed to him in the war. As has been mentioned above, he was willing to make terms with them, to cajole them into his favour: such was his attitude to the earl of Strathearn<sup>26</sup>, the earl of Ross (who retained his lands after eventually coming to peace)<sup>27</sup>, probably Alexander of Argyll<sup>28</sup>, and even Thomas Randolph, who was to be one of Bruce's right-hand men, and yet was on the English side of



the struggle from after Methven until late in 1308.<sup>29</sup> Many other names, mostly of lesser men, could be added to the list, and many charters enrolled under the Great Seal confirm their lands, or reward them for their service with those forfeited by less accommodating adversaries.<sup>30</sup> A pardon survives, of a rebel who fought against King Robert (or perhaps David II) in a castle garrison, and who later came to peace and had all his lands restored to him.<sup>31</sup>

Those, such as the earl of Buchan and John of Argyll, who refused to accept peaceful persuasion, suffered, as well as military action against them, the full judicial consequences of their recalcitrance. Roderick of Islay, for instance, was forfeited in parliament as late as 1325<sup>32</sup>, and there are many references in the Great Seal records and elsewhere to lands forfeited by rebels. Those who died against the king's peace were

"perpetually disinherited of all estates, lands and tenements in the kingdom of Scotland, and... removed from all hereditary rights... for themselves and their heirs".<sup>33</sup>

Anyone who refused to aid the king in the defence of the kingdom was "deemed to be a traitor to the realm, and to have committed the crime of lease-majesty".<sup>34</sup>

Not all judicial business concerning the nobles was related to their allegiance in the war, however. A dispute between the abbot of Dunfermline and John Campbell regarding lands in Perthshire was settled in parliament in 1323<sup>35</sup>, and other similar processes are also extant. The most notable example, however, of the king in judgement over his subjects is from 1320. In August of that year a plot was hatched to dispose of Robert I and enthrone in his place Sir William de Soulis, the son of the Nicholas de Soulis<sup>36</sup> who had lodged a claim

for the throne in 1290.<sup>37</sup> The motive for the plot is obscure, although one might conjecture that in Scotland, as in England, there was growing frustration with the seemingly endless warfare. The treason was unearthed and reported to the king by Murdoch of Menteith<sup>38</sup>, and never came near to fruition. Apparently, however, a reasonable number of prominent members of the community were involved in the affair. Fordun mentions the countess of Strathearn, Sir David de Brechin, Sir Gilbert de Malherbe, Sir John de Logie, Eustace de Maxwell, Walter de Barclay, sheriff of Aberdeen, Patrick de Graham, Roger de Mowbray, and other 'esquires'. The seriousness of the threat to establish Soulis as king must be very doubtful, but nevertheless the conspiracy prompted in King Robert the most vitriolic response. His severity must partly have been a means of signifying that such disloyalty would in no way be allowed to weaken the hard-won unity of the Scottish realm, but it may equally have been an understandable reaction to a perhaps unexpected and undoubtedly disturbing threat to the king's authority. The justice meted out to the conspirators was harsh, but fair. Soulis, who confessed, and the countess of Strathearn, were sentenced to life imprisonment; Brechin, Malherbe and Logie were executed, having first been drawn through the streets of Perth behind horses. The body of Mowbray, who had died before trial, was brought to parliament to have judgement passed; his sentence (for drawing and hanging) was not carried out, however, due to the king's distaste for desecrating the body. Maxwell, Barclay and Graham were found not guilty, and were released. It is unfortunate that no formal record survives of these proceedings. The chronicle accounts are fairly consistent, however,



and Barbour's description of the disgust with which Ingram d'Umphraville viewed the execution of Brechin is tempered by Fordun's statement that some of the conspirators were released, and by the reverence shown for Mowbray's corpse. Here is a picture of a king in judgement, using his position to exert undisputed authority, and yet doing so within the framework of 'the laws and customs of the land'. As befitted the 'good king', Bruce was firm and severe, but nonetheless fair, in his administration of justice.

The main corpus of legislation by Robert I is to be found in the record of the parliament which met at Scone in December 1318.<sup>39</sup> There are some twenty-eight acts (plus one addition, which does not appear to belong with the rest<sup>40</sup>), which are preceded by a general brieve for their proclamation, and a preamble stating that the acts were made

"with the common counsel and express consent of the prelates, earls, barons and freeholders... and the whole community"

about affairs relating to the king and kingdom,

"and which might in future touch upon the honour of God and the church, and the amending of his land and the defence of his people, for the maintenance of the peace of his land".

Some of these acts - those providing for the maintenance of the rights and liberties of the church (which is described as sancta ecclesia Scoticana), and for the administration of justice to rich and poor alike<sup>41</sup>, for example - are commonplace, and bear little specific significance for this reign. A large number relate to civil or criminal justice: no respite was to be given to those convicted of pleas pertaining to the crown, unless by special privilege granted by the king or his predecessors; those indicted to appear before a

justiciar were to be excused only by proven illness or absence in the king's service; those hindering the pursuit of evil-doers were to be indicted; no poinding for debt was to be carried out unless in the presence of a royal officer, and controls were set on the amount of such distraint and the circumstances in which it could be exercised; heavy penalties were imposed for harbouring thieves; and a number of procedural points were laid down<sup>42</sup>, all with the aim of making the courts more effective and fairer. Fully half of the legislation is concerned with the equitable administration of justice, a far higher proportion than is contained in, for instance, the famous legislation of James I of 1424. The reason for this may well be that over a period of some thirty years of intermittent civil strife and warfare, judicial practice had been neglected and was, by the time Bruce was able properly to attend to such affairs, in a poor state of repair. In such a situation it is likely that the officers of the crown, or even of the royal household, would be accustomed to using their influence in the judicial process. The two acts forbidding such behaviour<sup>43</sup> thus fit neatly into the scenario. Without going into great detail about the particular provisions made, it seems clear from this legislation that Bruce regarded the restoration of an efficient judicial system as a priority, which shows that the much-stated position of the king as the 'fount of justice' was no mere rhetorical fantasy. The king had a duty to protect his subjects from injustice, and if the legal system was in a state of decay, as it very probably was in early fourteenth-century Scotland, then the king was obliged to attempt to reform it.



Other acts equally reflected the nature of the period which had preceded this legislation, and the state of warfare which was to continue for a further decade: trespasses committed by those in the king's host were to be punished in accordance with the common law, and those in the host were to be given the necessary sustentation and deterred from theft of provisions and other supplies; nobles were ordered to bring complaints against each other to court, rather than settle them by civil disturbance, as had been done after the death of Alexander III; no conspiracies were to be made, nor malicious rumours spread "through which discord may spring up between the lord king and his people".<sup>44</sup> The armour and weaponry required to be possessed by the king's subjects was laid down, and the sheriffs and lords of the kingdom were ordered to hold wapinschaws to ensure that each man could provide his quota.<sup>45</sup>

The confusion created by the war in the inheritance of land, and the many changes in its possession, are also reflected in the legislation. Several acts deal with unjust loss of fees, inheritance, and infeftment.<sup>46</sup> It is noticeable that whereas hitherto the breve of recognition had been valid only for inheritance from the mother, father, brother, sister, uncle and aunt, it was henceforth to be valid also for inheritance from the grandparents.<sup>47</sup> This was probably a recognition that many sons had died in the war, and inheritance direct from grandparents would become common in the oncoming generation. Some cases of confusion over rights and possession caused by the long lapse in strong government came before King Robert himself<sup>48</sup>, and these acts must be seen as an attempt to update the common law, or the 'customs of the

realm', to cope with the situation brought about by the drastic constitutional and governmental difficulties, which were, after all, unprecedented in 'modern' times.

Only two of the acts touched on financial affairs<sup>49</sup>: churchmen were forbidden from sending money or goods outwith the realm without the king's permission, because of the poverty of the kingdom on account of the war, and strict control was to be exercised over salmon fishing, presumably in order to safeguard the salmon, a valuable export commodity. These two measures re-emphasise the point that the legislation of 1318 was aimed at restoring the land to a stable and prosperous condition, by repairing the damage done by the years of strife. In this respect King Robert's 'peaceful rule' was part and parcel of his war effort. By fair, firm and stable government, and by improving the economic situation, he would increase both the nation's unity and the crown's resources, both of which contributed to the likelihood of eventual victory.

The wealth of the realm, and specifically of the crown, was vital to the maintenance both of a strong war effort and of royal authority. Parliament, as the forum for the community's approval of the royal will, was thus to a great extent a 'fund-raiser' for the crown, and spent much of its time on matters economic.

Robert I's consistent attempts to maintain trading links with lands overseas, and also with England, have already been adverted to. The economic support given to the Scots by trade with the Low Countries, France, Ireland and Scandinavia cannot have been without influence in the outcome of the war. King Robert's awareness of the importance of this aspect of his rule is emphasised by his capture of



sea-ports such as Aberdeen, and his careful relationships with other kings. The letter to the French king of March 1309 must have had commercial implications, and the agreement made with Hakon V of Norway in October 1312<sup>50</sup>, as well as confirming the Treaty of Perth, sought to reduce the tension which had caused men of both countries to be imprisoned and their goods confiscated. King Robert wished to have peaceful trading relationships with all realms. It is noteworthy that in times of truce Bruce took every opportunity to trade in England, and the later truces between the countries contain measures specifically designed to ease Scotland's commercial situation.<sup>51</sup> The success of the Scots in maintaining economic links with other countries in spite of the difficulties imposed by the war cannot have been due to any noble belief on the part of her allies in the justice of Scotland's cause. It must have been due to the fact that to trade with Scotland, even with all the risks involved, was still a profitable exercise. True, the repeated complaints by Edward II about Flemish piracy show clearly enough that that particular trade gave profit to more than just the Scots: frequently, when the Flemish 'merchants' captured an English ship, the crew were off-loaded in Aberdeen, and the goods taken to Flanders for sale.<sup>52</sup> Even when the goods were disposed of in Aberdeen, the merchants who procured them would almost certainly be expatriate Flemings. The piracy against English ships was thus an obvious source of profit. But it would have been equally profitable, and probably less dangerous, for the Flemings to have allied with the English to exercise piracy against Scottish ships. The support for Scotland implies that there was a greater profit at stake than just the piracy

itself. The principal commodities sought by these merchants were wool and hides, in return for which arms, armour and victuals were supplied to the Scots.<sup>53</sup> It seems likely that Scotland was a large producer of these sought-after items, even outstripping England, many of whose own merchants, as has been demonstrated, were equally keen to partake in the Scottish trade, at the risk of incurring the wrath of their king. Bruce's capture of the north-east early in the war assumes a new significance when the value of sheep is considered, for at a time when the borders and Lothian were subject to constant plundering and burning, the fertile lands of Moray and Buchan must have been of utmost importance in the production of export material. Scotland also exported fish, although probably on a lesser scale, and the act regarding salmon fishing was presumably intended to aid this industry.

The problem, of course, was not merely to bring food, arms and armour into the country. In a period when royal power had been severely restricted, the revenue of the crown was at a low ebb. To maintain the royal household and run the administration, let alone fight the war, was expensive, and measures had therefore to be taken to supply the crown with the necessary funds. The crown gained substantially from an improvement in the realm's economy. Customs were raised from import and export, and from trade carried on in the burghs. If money was plentiful in the kingdom, then commerce was stimulated, and more custom was raised. This was the reason for the act (which was of a type not uncommon in Scotland and other countries) prohibiting the export of cash or valuables by clerics: it was intended to hinder the drain of money from Scotland to the papal



curia, which could contribute to a dearth of money and consequent commercial stagnation.

The crown also gained money from justice, which was a further good reason to restore the judicial system to proper working order, and from rents and fermes payable from lands and rights held in chief. This last source of income undoubtedly increased throughout the period of Bruce's rule, as more land fell under the king's control, and was granted to his faithful subjects. He no doubt also gained considerably from wards, marriages and reliefs. However, especially in the earlier years of the reign, these sources of income can have been no match for the severe drain on the coffers imposed by the war. Not only the constant feeding and equipping of a host, but the cost of repairs to defences and buildings, of embassies sent abroad, and of compensation and ransom for injured or captured parties, impoverished the crown. Certainly, some alleviation was found through the tribute raised in northern England, and the booty and ransoms gained after battles such as Bannockburn and Myton. Nonetheless, by 1326 the revenue of the crown had been so diminished that the king "could not sustain his estate without intolerable burden and hardship on the common people".<sup>54</sup> The community of the realm, gathered in parliament, was thus asked, and agreed, to provide additional revenue in the form of a tenth of income from all land, for the king's lifetime.<sup>55</sup> That such a provision could be made, apparently without serious opposition, is a sign of the widespread support which Robert I had gained amongst the merchant and burgess class, as well as the nobility and clergy. In 1328 this allowance was increased<sup>56</sup>, in order to raise money towards the £20,000 required

by the terms of the treaty of Edinburgh. King Robert's nurturing of the economy and of commerce had earned him the backing of the moneyed sections of the community, without whom he could not have won the war. It contrasts starkly with the severe opposition which the English kings met in the later years of the war, in their attempts to raise money from their overtaxed community. Robert I's reign did not see the first entrance of the Scottish burgesses into parliament<sup>57</sup>, but it certainly saw them reinforce their position in that body as an important element in the king's rule of the land.

Part and parcel of the king's estate for which this extra money was required was the cosmetic side of royalty: to maintain the dignity of the crown, the king had to live in a style suited to his rank. Only thus would he gain the awe and respect of his subjects and of other princes. The Exchequer Rolls thus contain a great deal to do with the king's new residence at Cardross<sup>58</sup>, and the luxurious fittings, such as pictura for the king's chamber, provided for it. Mention is made of the king's goldsmith<sup>59</sup>, and of such sundries as a coat of arms for the king's palfrey.<sup>60</sup> Cloth was specially dyed for the king's ship, royal sergeants in Berwick were provided with new tunics by the king's order, and robes were given to messengers and clerks.<sup>61</sup> Many gifts are recorded: to religious houses, and to individuals, such as 'James the apothecary'<sup>62</sup>, who gave service to the king in some way. Events such as the wedding of Prince David to Joan, sister of Edward III, in 1328, also figure in the accounts.<sup>63</sup>

As well as giving an idea of the life-style of the king, the Exchequer Rolls provide useful information regarding the way in which his affairs were conducted. The local officials - constables,



sheriffs, custumars and the like - gathered all the revenue from fermes, customs, justice and other sources, according to their sphere of activity. They also dealt with the necessary expenditure, including building works, gifts of the king and fees, and each year they submitted their accounts to the chamberlain who assessed their veracity and ascertained what sum was outstanding on either side. The system rested on the efficiency with which the king's household and local officers were able to carry out their duties, rendering the peaceful, stable and acquiescent kingdom a potential source of royal profit. The efficiency of the system, however, did not apparently deny the king a personal part in fiscal government. As in judicial matters, there was still room for an element of personal rule in fiscal affairs: the provosts of Stirling, in the accounts which they submitted in January 1328, made reference to the subtraction of an amount of multure "on which the king was consulted".<sup>64</sup> This was important: the accessibility of the king was influential in gaining him support. He had to be available to his people, to settle disputes in person, and to demonstrate, in an age of difficult communication, that he did in fact, and not just in name, bear the authority of the crown.

A common complaint against unpopular kings was that they did not hold enough parliaments. Parliament was the forum for airing grievances of any sort before the king. It was the meeting place of the king and community, in which their contract for the rule of the kingdom was worked out. The list of parliaments and similar assemblies printed in The Acts of the Parliaments of Scotland<sup>65</sup> assigns to Robert I (excluding his inaugurations) twenty-one public

meetings of at least king and council between March 1309 and the end of the reign. Thirteen of these are described specifically as parliaments, and a further two<sup>66</sup>, on the basis of their composition, may fairly be consigned to that category. This total of at least fifteen parliaments and six other public assemblies in a twenty-three year reign compares very favourably with the total of seventeen such gatherings held during the thirty-seven years of Alexander III's reign. In Alexander's reign, all these gatherings took place in Scone, Edinburgh, Stirling, Roxburgh, Perth or Cupar, a remarkably limited area exclusive to the eastern lowlands. By contrast, Robert I carried his government to such places as Inverness, Ayr and Arbroath, as well as the more 'normal' centres in the east. Indeed, even discounting his warlike expeditions, Robert I travelled more within his kingdom than most Scottish kings. His presence at Arbroath, Cromarty, Loch Broom, Dunstaffnage and Brechin during 1309, at Dumbarton, Inchmahome and Stirling in 1310, Ayr in 1311, Dundee, Inverness and Elgin in 1312, and his constant roving between centres such as Ayr, Arbroath (repeatedly - his chancery appears to have been centred there), Inverness, Dumfries, Dumbarton, Strathord, Coupar-Angus, Kilwinning, Melrose, Aberdeen, Berwick, Lochmaben and Whithorn throughout the reign<sup>67</sup>, give a sound impression of Bruce as a much travelled king. It seems that Robert I, in his attempt to create a unified kingdom, went to great pains to become known to his people, and to rule the whole country as thoroughly as possible.

The increase in the status of the Scottish king which became evident in the later years of Bruce's reign was largely consequent



upon the strength with which he had held the office. As in the reign of Alexander III, and in sharp contrast to that of the unfortunate King John, the strength of character shown by the monarch, and his unswerving adherence to well-established policy, earned Robert I widespread respect and obedience. The reigns of Alexander III and Robert I were also similar in that they began with the monarchy in a weak state; in Alexander's case that weakness was the result of his minority, and in Robert I's it was the outcome of years of constitutional and political turmoil. Both kings, perhaps due to the inauspicious beginnings of their reigns, took great pains to ensure the stability of the realm after their death: the only obvious failure of both of these much-esteemed monarchs was their inability to leave the kingdom a successor capable of continuing the firm rule which they had laboured to establish.

It was a duty of the medieval monarch to provide a suitable successor capable of maintaining stability. Perhaps especially in Scotland, where the system of primogeniture had already demonstrated its flaws in several minorities and in the trauma of 1290, and where elements of the old celtic system still found their place in the succession to both the monarchy and some earldoms<sup>68</sup>, it was incumbent upon the monarch to have the succession firmly settled, in the eyes of the community, well before his death.

Robert I thus made two separate entails of the crown, to attempt to ensure an untroubled succession after his death. The first was made in April 1315, in a full parliament at Ayr.<sup>69</sup> The timing of this provision was probably very deliberate. Made only shortly before Edward Bruce left for his Irish expedition, it affirmed his

continued involvement in the Scottish kingdom (and, incidentally, demonstrated that the Irish venture was itself a product of Scottish royal policy). The marriage of Marjory Bruce to Walter the Steward had in all probability been arranged by the time of this entail, and her inclusion in its terms was likely to have been made in the knowledge of that impending union, which would provide no conflict of Anglo-Scottish loyalties. (It is noteworthy that the terms of the tailzie specified that she must marry only with the consent of the king or "the greater part of the community of the realm".) Finally, although his actions at Bannockburn proved that he was far from an invalid, it was by then six years since the first onset of the illness from which the king was to die in 1329, and it should also be remembered that Scotland was still at war. At a time when Edward Bruce, his chosen successor, was about to leave the kingdom, it was politically expedient to have the succession publicly approved and affirmed, so that if the king should die in Edward's absence, there should be no internal wrangling between the magnates. The clear indication that Moray was to be regent was also an attempt to ensure stability in the short-term.

Alexander III's settlement of the succession had failed because it had not gone far enough, making no provision beyond the immediate heir apparent. The lesson had been well learnt by 1315: the problems faced by the kingdom in the interim had been the result not of Alexander's death - the succession was obvious, and largely undisputed in 1286 - but of Margaret's. The damage had been done by the Great Cause and the consequent division of the community and exposure to Plantaganet imperialism. Thus, for the first time in



Scotland, in 1315 the inheritance of the crown was settled providing for the deaths of the ruling king, his recognised heir, and the next in line, and also making provision for regency should it be necessary. The terms of the 1315 tailzie were nothing if not thorough. If the king should die without a male child, the heir was to be Edward Bruce, his brother. This was not "a drastic and possibly unjust reversal of the succession policy laid down by Alexander III in 1284".<sup>70</sup> It was a recognition that the needs of the kingdom were more important than the semi-established system of primogeniture. Alexander III had no other living heir in 1284. Had a brother been alive, it is very likely that he would have succeeded to the throne in preference to Margaret. Provided no male heirs were available there was no objection to female rule, but it was undoubtedly a second choice. Scotland's crown had for many generations been taken by the nearest male to the king who was able in body and mind. The female succession was adopted in 1286 because it was the only option. In 1315 the choice between succession by a (so far childless) female, or a man who was "strong and expert in acts of war for the defence of the rights and liberties of the kingdom" cannot have been difficult to make. The same choice would have been made had the option existed in 1284, and indeed the entail of that year did allow for Margaret's supersession by any male heir. Scotland was not committed to the principles of primogeniture. As was to be made clear even in the Declaration of Arbroath, the community always reserved the right to choose the 'rightful' and most appropriate king. A minor heir-male of King Robert would have been (and indeed was) acceptable, because the community could envisage

weathering the difficulties of a minority with the prospect of strong independent rule ahead. But in female rule lay dangers which rendered it acceptable only as a last resort.

Failing Edward (the only surviving male of any direct line within three generations of a past king, coincidentally in precise accordance with the old celtic system), the hereditary rights of the king's daughter were recognised, followed by those of her children, failing whom, "the nearest lawful heir of the body of the king" was to be given the crown. The earl of Moray was to be guardian should the new monarch be a minor, and if judgement had to be made regarding the succession, then Moray was again to have custody of the realm until a decision had been reached. It is also noteworthy that in such a case the succession was to be decided by "the prelates, earls, barons, and others of the community". In effect, then, the 1315 settlement surpassed that of 1284 not merely by providing more securely for the succession, but also by taking into account the fact that the tailzie might fail, and by pre-empting the kind of action by power-hungry nobles which had led to the disastrous constitutional collapse of 1290.

This entail is interesting, furthermore, as a symbol of the balance of power which existed between the king and the community of the realm. The king was not willing to trust the ad hoc type of arrangement which had worked in 1286. His own nominee was appointed to carry the government in almost any contingency. In this respect the power of the king appears to have been complete. However, the place of the community was recognised: they were required to give assent to the tailzie's terms, and to seal it. More importantly, to



them was assigned the task of electing the heir to the throne should the terms of the tailzie prove insufficient. A meeting "to ordain and discuss the legitimate succession and government of the kingdom" - in effect, a parliament without the king - was to be held, thus avoiding the necessity for outside interference along the lines of 1290. The responsibility for choosing the rightful king lay entirely with the community, as an integral part of the contract between it and the crown for the rule of the realm. Although the personal power of the king, the status of his crown, and the central authority of his appointed administration apparently increased in the reign of Robert I, there was no denial of the governmental rights and duties of the community.

The entail of 1315 was thus more than a bid to ensure the unopposed continuance of the Bruce royal dynasty: it was an attempt to avoid the constitutional pitfalls which had been encountered in 1290, both by exerting royal policy (given force by the community's pledged support) for almost any contingency, and by laying down the course of action to be followed by the community should the royal policy fail. The entail was therefore, in a manner of speaking, an act of constitutional legislation which bore relevance to issues wider than merely the question of succession to Robert I.

Three and a half years later, in October 1318, the Scottish attempt to conquer Ireland collapsed, with the death of Edward Bruce in the battle at Dundalk. King Robert and his queen, Elizabeth de Burgh, were still without male heirs, and the death of the heir apparent, the marriage of the king's daughter Marjory, her bearing of a son, and her death, had so changed the situation which had

prevailed in 1315 that an updated version of the previous tailzie was now required. The succession and related problems can thus be shown to have been constantly in the thoughts of Robert I. They were too important to be dealt with once, and then forgotten.

In December 1318, therefore, in parliament at Scone, a further entail was made bestowing the crown, failing male progeny of the king, upon Robert, the son of Marjory Bruce and Walter the Steward. Again, the tutelage of the realm, should Robert succeed as a minor, was to be in the hands of the earl of Moray, failing whom, James Douglas, until "the community of the realm, or the greater and wiser part of it should consider the said Robert or other heir of the king capable of ruling the kingdom and its people".<sup>71</sup> This entail was re-issued, including the name of the king's son David, and probably placing more stress on his succession, in 1326.<sup>72</sup> Once again, the king exerted his own authority, in appointing even an 'heir-apparent' to the guardianship, but the community's rôle was as carefully maintained as previously. Moray and Douglas took their parts upon them with the community's consent, and the community was to decide when any minority should end. The future guardians swore an oath to carry out their duties to the benefit of the kingdom, its clergy and people, and to uphold its laws and customs, another reminder that these settlements were made primarily in the interests of the crown and kingdom, rather than in those of the Bruce family.

It is interesting also to note that any who acted against the 1318 entail were to be held as guilty of lease-majesty and treason. The distinction between the two crimes is fine: the former would appear to have been an offence specifically against the crown,



whereas the latter was against the kingdom itself. Presumably, in this case, the crimes would be committed between the death of Robert I and the election of his successor. That lease-majesty could be deemed to have been committed during an interregnum is a further indication of the concept that the authority of the crown never died, even when there was no personal upholder of it. The royal authority was vested in the community and its appointed leaders, be they kings or guardians.

This second entail made the constitutional legislation even more explicit than that of 1315, laying down the laws by which the community should be governed in any discussion of the succession. As had been the custom in times past with regard to the crown (as opposed to lesser fees), so the entail stated, the nearest heir-male in direct line was to succeed, failing whom the nearest female in direct line. The direct line failing completely, the nearest male in a collateral line bearing the right to rule through the blood of the dead king was to gain the throne without any impediment.<sup>73</sup> This law is remarkable in that, despite its somewhat oblique reference to former custom, it does not represent the traditional succession system of Scotland, by which an able male of a close collateral line (for example, the king's brother) would always have succeeded in preference to a female of direct line. Even more startling, however, is its marked contrast with the arrangement made in 1315, by which Edward Bruce would have taken precedence over Marjory. The settlements both of 1315 and 1318 attempted to ensure male succession to Robert I. In 1318 the approach through the direct line was the only way of achieving that end, and no harm was done by extending the

law further to fulfil a secondary purpose - the legitimising of the Bruce line of kings in terms of the much revered appeal to ancient custom. A glance at the table of the claimants to the crown in 1290<sup>74</sup> shows that the direct line of Alexander III having failed, the nearest male in collateral line was Robert Bruce, the grandfather of King Robert I. In the guise of guidance for the future, Robert I produced an apologia for his family's claim to the throne. According to this law, John Balliol had never been the rightful king of Scots, and Bruce was thus justified in claiming Alexander III as his immediate predecessor. The Balliol episode, as far as the king was concerned, was over: any who attempted to press a Balliol claim to the throne was, by the terms of this very statute, a traitor to the realm and guilty of lease-majesty.

This opens a new perspective on custom and the succession system. Accepting absolutely the primary desire of the kings of Scots to achieve stability within the realm, and the common weal of the whole community, it nevertheless remains true that by appeal to a custom of at best doubtful authenticity, Bruce affirmed his dynasty's hold on the crown. His contrasting settlement of 1315 was made partly with the same aim. Edward I's settlement of the Scottish succession in 1292, although made in accordance with custom, gave him a good opportunity to gain at least a large measure of control over the Scottish crown. Alexander III's entail of 1284 also ensured that descendants of his blood would succeed to his crown. Indeed, the gradual divergence from the old celtic system, which was indicated by, for example, the accession of Malcolm IV in 1153<sup>75</sup> and the accession of Alexander III as a minor in 1249, was in itself an



attempt on the part of the ruling line to restrict the succession, excluding other dynasties. At times (as in 1315) this desire required appeal to one custom, and at other times (as in 1318) another custom was more efficacious. The fact is that the succession system was vague and open to debate. Primogeniture had not been fully established in Scotland, and neither had the old system been completely ousted. The succession appears to have wavered between the two, according to the needs of the moment, and the two radically different statements of 1315 and 1318 are a striking demonstration of the fact.

The settlement of the succession was a fundamental duty of the king, and Bruce, like his predecessors, made his arrangements with the good of the realm at heart: stability and prosperity could not be upheld if the kingdom was plunged into another constitutional crisis. It was natural that Bruce saw the good of the realm in terms of the strong continuance of his policies under the guidance of his family. His was the first attempt to set down in writing an explicit statement of the law of succession to the Scottish crown. That it is a statement of the system of primogeniture can be no surprise: it reflected his concept of the needs of both the nation and his own dynasty. In that, he was indeed in the true tradition of his royal predecessors of the past two centuries.

The king, as the 'father' of his people, was responsible for their welfare in all areas of life: their freedom from injustice, the peace and stability of the land, and their material prosperity. He was also responsible for their spiritual wellbeing: his position as a

religious leader was fundamental to the nature of his crown. King Robert's propaganda stressed the divine part in his assumption of the throne; his seal emphasised that he ruled "under the governance of God"<sup>76</sup>; he claimed, as had his predecessors, to hold Scotland of no superior but God alone, and his propaganda avowed that his policy was aimed at establishing that situation wherein the Scots could live at peace in devotion to God, with the church unscathed.

A king achieved the ideals of Christian rule by supporting and increasing the church, by receiving its support (which gave his rule divine authority), and by acts of personal devotion and piety. Throughout his reign, the question of spiritual respectability must have been one of Bruce's most constant weaknesses. Excommunicated at the start for Comyn's murder, and repeatedly thereafter for his defiance of English and papal edicts, his claim to rule in accordance with the divine will necessitated a particular attention to the national church. Only through conspicuous piety, and through his support for the church, could he divert to the national cause its considerable spiritual, economic and political strength. He had to prove to Christendom that his conflict with the papacy was merely a political matter which cast no doubts on his status as a Christian king. To some extent this end was achieved through propaganda: the declarations of 1310 and 1320 were both very carefully worded in order to stress the devotion both of the Scots and of the king himself.

The support of the church, however, had to exist in more than just the minds of other rulers: it had to be a reality in Scotland, for without it King Robert could not have won the allegiance of his



own people, who required their king to be a spiritual leader. Throughout his reign, therefore, King Robert vigorously pursued a policy aimed at ranging the national church behind his quest for an independent Scotland. One of his earliest royal acts was to seek the election of Nicholas Balmyre to the bishopric of Dunblane.<sup>77</sup> He inherited from the guardians a number of bishops who readily lent support to the national cause<sup>78</sup>, without doubt at least partly because of the long-standing struggle of the Scottish church to resist the attempts at domination by the metropolitan sees of York and Canterbury. Bishops Lamberton and Wishart were, of course, two of his best-known supporters. Lamberton attended his inauguration, and Wishart gave him absolution from the crime at Dumfries, and received his assurance that he would uphold the church and govern in accordance with its desires.<sup>79</sup> Unfortunately, both Wishart and Lamberton spent part of the reign in English prisons. Wishart was in exile between 1306 and 1314, and although the see and its wealth were in royal hands, the absence of the bishop himself was a sore loss. Wishart returned to Scotland in 1314, but died in 1316<sup>80</sup>, and despite strenuous efforts, Bruce did not succeed in having his own nominee consecrated to the see until 1323.<sup>81</sup>

St. Andrews was without its bishop for a shorter time. Lamberton was not viewed by Edward II with quite the same hostility as Wishart, and was able to play some part in Scottish affairs between 1308 and 1312, by which date he can be shown to be firmly on the Scottish side of the struggle.<sup>82</sup> He remained loyal to Bruce and staunch in his support of 'the cause' until his death in 1328.

Bruce's dealings with the other dioceses show more clearly his desire to win them over to his cause. In Dunkeld he succeeded in gaining the appointment of William Sinclair (1311); in Moray, John Pilmure (1326); in Galloway, Simon Wedale (1321); in Dunblane, Maurice, formerly abbot of Inchaffray (1320); and in the Isles, Bernard de Linton (1328), all of whom appear to have been candidates who at least met with royal approval.<sup>83</sup> Of those bishops who were in post, and hostile, at the start of Bruce's reign, most appear to have given in to his attempts to win them over to his side. Details are not known for all, but certainly Henry Cheyne of Aberdeen<sup>84</sup>, Andrew of Argyll<sup>85</sup>, Ferchard of Caithness<sup>86</sup>, and perhaps also Alan of Galloway, bishop of the Isles<sup>87</sup>, had come to his peace by the end of 1314, and if the re-issue of the '1310' declaration of the clergy is indeed genuine, and to be dated not later than 1316<sup>88</sup>, then for the last twelve years of his reign, Bruce had the active support of all twelve Scottish bishops. Even by 1314 it appears that only Galloway, and perhaps the Isles, may still have held out against him.<sup>89</sup> The outstanding support of other clerics such as Bernard de Linton, the chancellor (who did not become a bishop until 1328), must also have been of considerable help to King Robert, who could thus quite justifiably claim to be fulfilling the spiritual aspect of his kingship. Having succeeded in winning the national church over to his cause, to his own people he had no lack of divine authority, and had largely managed to reduce papal opposition to the political level.

Undoubtedly, much of Bruce's clerical support, like his lay support, was gained through his political policy, and through his



increasing power: there was a limit to how long he could sensibly be resisted. Nonetheless, his practical support of the church and its rights and liberties was also of vital importance in maintaining its assistance. The church could remain in the king's peace, without necessarily co-operating with him in the fashion which Bruce required.<sup>90</sup>

The oath which Bruce made before Bishop Wishart in the days leading up to his coronation was therefore an early undertaking to support the church in the realm. The letter which tells us of this oath<sup>91</sup> should not be taken too literally when it says that Bruce swore "to abide under the direction of the clergy". In all probability it was an oath to secure and uphold the freedom of the church and to rule according to the tenets of its teachings.

As was normal, the first act of the legislation of Robert I provided that the Scottish church should be maintained in peace with its rights and liberties, and that the church and religion should be protected from all oppressions, burdens and injuries which had previously afflicted it. This, a standard act, could be taken as mere form - 'custom used and wont'. However, a study of other sources shows that Bruce in no way neglected the rights and welfare of the church. Charters are recorded to the abbeys of Melrose, Newbattle, Kilwinning, Lesmahagow, Kelso, Crossraguel, Dunfermline, Culross, Lindores, Scone and Jedburgh, the priories of Coldingham, Whithorn and Restennet, friaries in Edinburgh, Banff and Glasgow, and to the cathedral church of St. Magnus in Orkney.<sup>92</sup> Some of these were merely confirmations of charters by his predecessors or tenants-in-chief. Many, however, restored lost lands and privileges,

or bestowed new ones. The abbot and convent of Kilwinning, for example, were granted new lands, and were also perpetually quitclaimed of a reddendo formerly paid by them to John Balliol or his heirs for the lands of Kilmarnock.<sup>93</sup> Several grants were made in order to help in the construction of new churches or the repair of war-damaged buildings. Melrose, for example, received the gift of the wards, marriages and reliefs of the courts in the sheriffdoms of Roxburgh to the amount of £2,000, to assist in the cost of a new abbey church, and a teind of all pleas of the crown was granted to Whithorn priory for the same purpose.<sup>94</sup> Allowances were given to help with lighting and other running costs<sup>95</sup>, to provide clergy<sup>96</sup>, for veneration of saints<sup>97</sup>, or to help the poor.<sup>98</sup> There are some straightforward gifts to increase the wealth and power of the institutions. Most notable in this class is the grant to Dunfermline abbey of the right to use their own cocket seal, which gave them considerable trading advantages throughout the realm.<sup>99</sup> The stated motives for the gifts vary: many are for the welfare of the king's ancestors, predecessors and successors; some are out of simple piety; others are in recognition of hardship caused by the war; and one<sup>100</sup> is in memory of Christopher Seton, one of the king's supporters who died at the hands of Edward I's judiciary in the early days of the conflict.

These major grants to the church are augmented by a host of other gifts, recorded in the Exchquer Rolls.<sup>101</sup> 'One-off' gifts, annual grants, salaries of the king's chaplains and the cost of a chapel in his new residence, gifts for the repair of buildings, annual fees and second teinds granted to various churchmen, and alms



and special grants for specific purposes, again give the impression of a constant stream of royal munificence towards the church. The king's piety also took him on a pilgrimage to Whithorn near the end of his life<sup>102</sup>, a final reminder, if any were needed, that his long conflict with the religious head of Christendom bore no relevance to his personal relationship with the God in whose name he ruled, and to whom he gave the credit for his successful re-establishment of the Scottish realm and crown.

In his patronage of the church and outward displays of devotion, Bruce was little different from his predecessors and other contemporary kings. A zealous attitude to the church was part and parcel of the king's duty towards his people, was expected, and was given with undoubted sincerity. In this, as in his administration of justice, his care of the economy, his legislation, and indeed his relations with other countries, Robert I showed great continuity with his predecessors of at least the previous century. There was little to distinguish his style of government from that of Alexanders II and III, and although his tenacity in the face of adversity, and the extreme length and unequivocal result of the war he fought with England marks him out as a king of very great stature, his basic policy was no different from that pursued by previous kings and guardians.

A further sign of the king's conservatism in government was to be found in his treatment of the realm's earls and earldoms. As William I had found more than a century before, when he tried, unsuccessfully, to instal his brother David in the earldom of Lennox,

ousting the native family of earls, a king had to be careful how he treated the earldoms of Scotland: his authority did not generally extend so far as to disrupt the succession to the earldoms. In 1306 the earls of Atholl, Carrick (who was of course the king himself), Lennox and Menteith came out against the English. Lennox was faithful throughout the war, but Atholl and Menteith both died after a short time. David, the heir to the earldom of Atholl, supported the English until 1312, and again from 1314 onwards. Menteith remained in ward (in King Robert's hands) until granted to Murdoch, a member of the old earl's family.<sup>103</sup> The earldom of Caithness was in ward in 1306, and nothing is known of the allegiance of the earl until he appears as a signatory to the Declaration of Arbroath in 1320. Thus, for part of the reign at least, the earldoms of Angus, Atholl, Buchan, Dunbar, Fife, Mar, Ross, Strathearn and Sutherland were opposed to the king. Some (for example Ross, in 1308) came to his peace early in the war. Others (Strathearn and Mar, in 1313 and 1327 respectively, for example) remained pro-English until much later. What is remarkable is that only the earldoms of Angus, Atholl and Buchan, whose earls never gave Bruce their constant allegiance, were lost to the families which traditionally held them. Buchan was dismembered, and although a co-heir of the forfeited earl inherited half the lands, the title lapsed. Angus was finally forfeited from the English Umphraville family in 1326/27, and was given to a branch of the Stewarts. Atholl was forfeited and given to the Campbells in 1314. All the other earldoms, even those whose earls were against the king's faith for many years, were eventually retained by those who had held them in 1306 or by the relevant heirs. In this, King



Robert showed great concern for the traditions of Scottish rule. The only innovations were the dismemberment of Buchan, the re-institution of the ancient earldom of Moray as a reward for Thomas Randolph, and the forfeiture and regranting of Angus and Atholl.

The most striking example of King Robert's care to maintain the status quo with regard to the earldoms is to be found in the case of the earldom of Fife. Earl Duncan, a minor, was in ward in England in 1306, and remained there, at the peace of the English king, until after Bannockburn. When this earl gave his allegiance to King Robert in 1315, the king, with an eye to maintaining the old custom that the kings of Scots were placed on 'the stone' by the earl of Fife, made an indenture<sup>104</sup> with the earl, providing that should the earl die without heirs, the earldom would revert (as would normally be the custom) to the king and his heirs. However, since the part played by the earl in the inauguration ceremony demanded that the earldom remained separate from the crown, it was further agreed that in the event of the earl leaving no heirs, the king would assign to the earldom a lord separate from the crown, and should the king die without assigning a holder to the earldom, it should pass to Alan, son of Alan of Menteith, Earl Duncan's cousin. This provision is a salient reminder of the conservatism of the Scottish realm, and of the king. He himself had not been placed on the stone by the earl of Fife, but some act symbolic of enthronement had been performed by the earl's sister.<sup>105</sup> No-one appears to have questioned the validity of Robert I's rule on that basis, but, nonetheless, it was an omission which the king wished to prevent from recurring, and this indenture was thus made in order to safeguard the traditional rôle of the earldom of Fife from the dynastic problems which might affect it.

Only where ultimate reconciliation was impossible was Robert I willing to exercise his authority to remove the family of an earl from its inheritance. That he could do so at all is itself significant of the weight of royal authority in Robert I's reign. That he chose not to take this course of action, however, even in such cases as the long-delinquent earl of Mar, displays a deep-seated conservatism and regard for custom which is most apparent in his dealings with Fife, but nevertheless permeates the whole of King Robert's administration of the realm.

The king's work, then, was primarily of restorative character. That he could carry out the restoration so thoroughly within the course of a twenty-three year reign is a remarkable testament to his abilities as a leader, politician, and administrator. To have re-established Scotland in as secure a financial and political position as she had been in under Alexander III was a great feat, and, had the outcome of his attempts to settle the succession been happier, Robert I's reign might well have heralded the beginning of a new 'Golden Age'.

True, there were administrative innovations in the reign: the use of the inspeximus<sup>106</sup>, and the dependence on the burgesses in parliament for royal revenue, for example. However, in these too there was continuity, for all kings introduced new practices and legislation in order to increase efficiency and cope with the particular conditions of their reigns. There are documents, such as the Declaration of Arbroath, which find their like in no other Scottish king's records; but these were individual responses to specific situations, and the fact that others similar were not



produced in, say, Alexander III's reign is indicative not of any technical backwardness, or lack of capability, but merely of the fact that such documents were not required.

The style of government adopted by Bruce did show absolute consistency with that of his predecessors. That is not to say that it was static: like all governments, it grew and developed in order to meet fresh requirements, and this trend had its own profound effect on the kingdom. The fundamental change which Bruce's reign did see in governmental terms is linked not to any specific administrative practices, but to the general growth in the strength and status of the crown. In this respect governmental development is linked to the development of national identity and the elevation of the monarchy, which were the results of the war. It appears that Robert I, because of the strength of his crown and the unity of the kingdom under his rule, was able to extend his government to areas, both geographical and administrative, which had previously shown only scant respect for the Scottish crown. The people of the western seaboard, for example, played a far greater part in Scottish affairs in this reign than formerly, and acknowledged the power and leadership of the king of Scots to an extent unknown in previous reigns. The hitherto troublesome and separatist area of Galloway was quiet, and accepted peacefully the legislation which the king produced specifically for it.<sup>107</sup> This king dealt with judicial matters as far north as Orkney (although those islands still belonged to Norway) and spent more time in more remote areas than had any recent king. His successful raising of revenue from the whole community to help in the re-establishment of the status quo also

showed an ability to carry traditional powers further than previously. In effect, then, the reign of Robert I saw an increase in the centralization of government. More power was wielded by the king because of the higher status accorded him. He was thus able to increase his authority, and wield it more effectively. His control over the land had also increased partly because he, to a greater extent than any of his predecessors, had chosen who held it. A large amount of land had changed hands in the first quarter of the fourteenth century through forfeiture and reward, resulting in a very solid core of support for the king and his government throughout the country. This support, and the strong-willed nature of King Robert's government, enabled him to restore to Scotland an administration which, although on the same model as in former times, was more thorough. His success in war and peace alike brought to Scotland an expanding economy and an internal peace and stability which allowed her to emerge from war and constitutional despair as a strong, prosperous and unified nation.

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NOTES

- 1) P. Hume Brown, for example, in his History of Scotland, devotes eighteen pages to Robert I's reign. Three are taken up with the battle of Bannockburn, and, although he claims that Bruce's reign was "after that of David I, the most important in the constitutional history of Scotland", he devotes less than two pages to non-military affairs. W.C. Dickinson, in his Scotland from the Earliest Times to 1603, gives no place at all to matters not directly connected with the war.
- 2) Regiam Maj., p.57 (trans.p.58).
- 3) Rot. Scot. I, p.77.
- 4) Ibid., p.111.
- 5) Cal. Docs. Scot. III, no.282.
- 6) Chron. Fordun I, pp.309-10 (II, pp.304-5).
- 7) For frequent reference to Alexander III as predecessor noster ultimus defunctus, see, e.g., R.M.S. I, pp.7-8. Also, see below, p.435.
- 8) See Barrow, Robert Bruce, p.253 n.2.
- 9) Stephen of Dunnideer held the post by then: Glasgow Registrum, no.258; St. Andrews Liber, p.120.
- 10) See, e.g., the promulgation of the laws of King Robert in 1318, in A.P.S. I, p.466.
- 11) This happened under the guardians when, for example, the English sheriff of Aberdeen, Henry de Latham, went over to the Scots in 1297, and retained his position (Stevenson, Documents II, pp.216-18). A couple of examples show the likelihood of a similar policy under Robert I. John of Inchmartin was a patriot under the guardians, accepted Edward I's ordinance of 1305, and held the sheriffdom of Perth in that administration. He was still sheriff of Perth in 1328 (Cal. Docs. Scot. II, no.1691; Exch. Rolls I, p.102). In 1305 a court of Edward I judged that the sheriffdom of Selkirk belonged hereditarily (through marriage) to the Keith family. In 1328 it was held by Edward de Keith (Cal. Docs. Scot. II, no.1681; Exch. Rolls I, p.105).

- 12) Duncan, Acta, nos.1, 5, 8, 10.
- 13) A.P.S. I, pp.483-84.
- 14) Ibid., p.447.
- 15) Barrow, Robert Bruce, p.414; Exch. Rolls I, p.52.
- 16) Exch. Rolls I, pp.53-4.
- 17) Lindores Liber, no.10.
- 18) Ibid.; St. Andrews Liber, pp.xxxi-xxxii.
- 19) Walter son of Gilbert and Robert de Ward, justiciars, were given orders regarding a land-holding case in September 1321. But where they held office is not clear: the case seems to belong to the north-east, whereas reference appears to be made to their justiciars' court held in Lanark (A.P.S. I, p.479). Walter, who was the ancestor of the Hamiltons, held lands in Clydesdale (R.M.S. I, p.21).
- 20) Sometimes such issues were made more complicated by forfeiture during the war. E.g. Formulary E, no.13: a widow claimed her dower-land, which had been forfeited because of her late husband's rebellion.
- 21) E.g. A.P.S. I, p.477. An assise was held which confirmed the rightful possession by the burgesses of Stirling of rights to pasturage and peat-cutting. The king in council then confirmed the relevant grants, and ordered observance of them.
- 22) A.P.S. I, p.479.
- 23) Ibid., pp.466-74. See below, pp.418-21.
- 24) A.P.S. I, p.467.
- 25) Ibid., p.472.
- 26) Cal. Misc. Inq. I, pp.545-46.
- 27) Cal. Docs. Scot. IV, no.1837 (& p.399); A.P.S. I, p.477.
- 28) See above, pp.305-06.



- 29) Barbour, Bruce II, pp.237-39,249, which shows how Bruce "treated" with Randolph, so that he became the king's man.
- 30) See R.M.S. I, pp.1-2 for several examples.
- 31) Formulary E, no.50.
- 32) A.P.S. I, p.483.
- 33) Ibid., p.464.
- 34) Ibid., pp.465-66.
- 35) Ibid., pp.481-82.
- 36) Sources for these events are Chron. Fordun I, pp.348-49 (II, p.341); Scalachronica (Maxwell), p.59; Barbour, Bruce III, pp.208-12.
- 37) The claim was through illegitimate female descent from Alexander II, and was never seriously entertained. The plot to put Soulis on the throne in 1320 cannot have had any credence on dynastic grounds.
- 38) It seems possible that if Murdoch came north to report the plot to King Robert, there may have been some English involvement in, or at least knowledge of, the treasonable dealings of Soulis and his co-conspirators. The story that Murdoch was given the earldom as a reward for this act seems unlikely, and uncharacteristic of Robert I, who usually took great pains to uphold the normal passage of inheritance in the earldoms. Gray's Scalachronica (Maxwell, p.59) is the only source for this idea, and is not corroborated by other evidence. More likely is that Murdoch, when he came over to Robert I from the English, inherited the earldom, as, given the state of the family, he would normally have done. Note that the succession law as laid down in 1318 specified that lesser fees did not use the same succession system as the crown. Menteith, an earldom with strongly celtic traditions, would more probably pass to the brother of a dead earl than to his (minor) daughter. Murdoch would thus be a probable successor to the earldom after the death of the younger Alan (Cal. Docs. Scot. III, no.410; document referred to below, n.102). He would not succeed in lieu of the minor Alan II because at that stage he was in the English camp. The date of Murdoch's espousal of the patriotic cause has yet to be established. The earldom was still in

the care of a custos in April 1320, and the evidence of the Scalachronica and Stevenson, Illustrations, pp.9-10 would seem to indicate that he did at least come to Scotland, and therefore presumably to the king's peace, later in 1320. His assumption of the earldom came, therefore, either at that time, or immediately upon the death of Alan II, whenever that may have been - certainly before 1323. The idea that he received Mary's permission to succeed to the earldom probably reveals a misunderstanding of the succession system by Gray, or may possibly refer to an entail (now lost) which named Mary successor to Murdoch, failing heirs.

- 39) A.P.S. I, pp.466-74.
- 40) The others are in parallel translation, and are in the third person. No.29 is in latin only, and is in the first person. Its provenance and therefore also its precise date must be questionable.
- 41) Nos.1 and 2 respectively.
- 42) Nos.3, 6-10, 12, 14-19, 22, 23, 26 and 28 respectively.
- 43) Nos.22 and 28.
- 44) Nos.45, 20 and 21. No.21 is somewhat reminiscent of several similar edicts made by the troubled Edward II, and may be a sign that despite the apparent unity which Bruce had created in the community, he was nevertheless aware that his authority was fragile. It may be that the Soulis conspiracy was not an entirely isolated episode, and that treachery by certain sections of the community was an ever-present danger.  
 With this group of acts should also be included no.29, forbidding export of arms to the English, which, although not properly one of this body of legislation, must nonetheless be an act of Robert I.
- 45) No.27.
- 46) Nos.13, 23 and 25.
- 47) No.23.
- 48) See above, p.414 and notes 20,21.
- 49) Nos.11 and 24.



- 50) A.P.S. I, pp.461-64.
- 51) E.g. Cal. Close Rolls Edward II, 1323-1327, p.229; see also, e.g., the Bishopthorpe agreement, which allows for shipwrecked goods to be returned and provides protection for foreign merchants in either realm. Formulary E, no.54 may date from the same period.
- 52) E.g. Cal. Close Rolls Edward II, 1307-1313, p.436.
- 53) E.g. Ibid., pp.570-71; Exch. Rolls I, pp.74-80. See also Stanford Reid in Speculum 29, pp.210-22.
- 54) A.P.S. I, pp.475-76.
- 55) Ibid.
- 56) Exch. Rolls I, pp.302-8.
- 57) See Barrow, Robert Bruce, pp.420-23; Duncan, Early Parliaments.
- 58) Exch. Rolls I, pp.56-58, 123-36 etc., 118.
- 59) Ibid., p.56.
- 60) Ibid., p.62.
- 61) Ibid., pp.68,64,60.
- 62) Ibid., p.66.
- 63) Ibid., pp.113,118.
- 64) Ibid., p.67.
- 65) A.P.S. I, pp.63-79.
- 66) April 1315, June 1323.
- 67) Taken from handlist in Duncan, Acta.
- 68) See note 38 above, on earldom of Menteith, e.g..
- 69) A.P.S. I, pp.464-65. See above, pp.426-27, n.66, and Barrow, Robert Bruce, p389,n.3. The presence of "bishops, abbots, priors, deans and archdeacons and other prelates of the church, earls, barons knights and others of the community..." certainly gives this gathering the air of a parliament.

- 70) Barrow, Robert Bruce, p.411.
- 71) A.P.S. I, pp.465-66.
- 72) A.P.S. VI pt.2, pp.628,664.
- 73) ...proximior masculus tempore mortis regis ex linea recta descendente vel masculo deficiente proximior femella ex eadem linea recta vel illa linea penitus deficiente proximior masculus ex linea collateralis attento iure sanguinis quo ipsi regi defuncto ius regnandi competebat regi de cuius successione agi forsitan contigerit sine contradictione seu impedimento quocumque in regno succedere debeat.
- 74) See also table facing p.80.
- 75) Under the old system, mature descendants of Duncan II would probably have succeeded in preference to Malcolm IV.
- 76) Deo Rectore Rex Scottorum.
- 77) Dowden, Bishops, p.201; Watt, Fasti, p.76.
- 78) Lamberton and Wishart had both been guardians, and the bishops of Brechin, Dunkeld, Moray and Ross had all been approved by the guardians, and were favourable to Bruce's policy of independence.
- 79) Stones, Documents, p.[133].
- 80) Watt, Fasti, p.146.
- 81) Ibid., p.147.
- 82) See Barrow, Robert Bruce, p.374, and the various sources cited there.
- 83) Watt, Fasti, pp.96,215,130,76,267,201-12. John of Pilmure (or his uncle ? - see Barrow, Robert Bruce, p.376, n.1) was a supporter of Bruce, and was used as an envoy in 1321 (Cal. Docs. Scot. III, no.719). Maurice of Inchaffray had supported Bruce since 1306, and was with him immediately after his inauguration (Palgrave, Docs. Hist. Scot. p.319). Bernard de Linton was Bruce's chancellor, and well-known as the probable author of the Declaration of Arbroath.
- 84) Barrow, Robert Bruce, p.375 and n.2.



- 85) A.P.S. I, p.289.
- 86) Ibid.
- 87) Alan of Galloway was a signatory to the re-issued Declaration of the Clergy (A.P.S. I, p.460), and was therefore at peace by 1316. It seems possible, however, that he came to Bruce's peace around the time of the Treaty of Inverness (1312), when the king was giving attention to the isles.
- 88) See Barrow, Robert Bruce, pp.379-80.
- 89) When (or if) Dalton came to peace is not known. His opposition probably had more to do with the geographical location of his see than dynastic or political motives, since he was originally promoted to the see by the efforts of the king's grandfather (Watt, Fasti, p.130).
- 90) Cf., e.g., the refusal of the English clergy to provide money for Edward II in 1312 (Raine, Letters from the Northern Registers, no.133).
- 91) Stones, Documents, pp.[130-34].
- 92) R.M.S. I, pp.5-28, 429-81 passim.
- 93) Ibid., pp.11-12. Kilmarnock was Balliol demesne-land, forfeited and granted to Robert Boyd, of whom the abbot and convent of Kilwinning presumably were to hold in blencheferme.
- 94) Ibid., pp.430, 437.
- 95) Ibid., pp.481, 429.
- 96) Ibid., p.458.
- 97) Ibid., pp.21-22.
- 98) Ibid., pp.431-32.
- 99) Ibid., p.438.
- 100) Ibid., p.458.
- 101) Exch. Rolls I, pp.52-240 passim.
- 102) See his itinerary as revealed by the place-dates of Duncan, Acta, nos.349-60, February to April 1329.
- 103) See above, n.38.

- 104) N.L.S. Ms.72 fo.10r. I am grateful to Professor Barrow for this reference, which, in turn, was supplied to him, with most helpful notes, by Professor Duncan.
- 105) This fact may indicate that it was a family right, rather than one pertaining to the earldom, which gave them this position in the inauguration ceremony. It cannot be doubted, however, that the earldom did have a special position in the kingdom, which may have dated back to the early days of the 'unification' of the kingdom.
- 106) A.P.S. I, p.482. See also Barrow, Robert Bruce, pp.418-19.
- 107) R.M.S. I, Appendix I, no.59. See also Barrow, Robert Bruce, pp.418-19 (with reference to Duncan MS.).

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CONCLUSION

The war which Bruce, and the guardians before him, had fought so strenuously, was justified at the time by appeal to the right of a kingdom to liberty. That liberty meant the freedom to live independently and, most importantly, at peace. Thus, the whole of Robert I's policy was aimed at establishing peaceful, universally accepted royal rule in Scotland which, in a manner of speaking, re-instated the halcyon days of the later thirteenth century. The conservatism, too, of Bruce's government tends to associate him with Alexander III, and there may therefore be a case for supposing that the traumatic events of 1286 - 1328 had merely seen the wheel turning full circle, and that, although the disaster of subjection had, ultimately, been averted, progress in any real sense had been very limited.

However, such a view is misleading, for in fact the decades between the deaths of Alexander III and Robert I saw a major change in the Scottish constitutional set-up, a change which was an acceleration of a gradual process of development which had been taking place since at least the early thirteenth century.

The dynasty which had ruled Scotland from the close of the eleventh century had been, by and large, remarkably successful. There had been, inevitably, certain internal political difficulties, to a great extent associated with the process of 'Normanisation', and occasional temporary problems such as the subjection of King William to Henry II of England. Nevertheless, the line had generally been

able to put their policy into effect with relatively little disruption to the life of the kingdom. The process of 'Normanisation' was primarily aimed at increasing the centralised power of the monarchy. This policy, which by its nature involved centralised control of revenues, played a great part in the development of an outward-looking trading economy which, in alliance with the more modern aspect of Scotland's twelfth-century monarchy and society, had the effect of hoisting Scotland out of its previously more insular character into the wider European setting. The movement is surely demonstrated by the fact that from the twelfth century it became customary for the Scottish kings to take their queens from the noble or royal families of England and the continent. These political, social and economic developments led to a greater dependence of the realm on the monarch, whose position as the focal point of the life of the entire community grew accordingly, and with it the prestige and strength of the monarchy in the kingdom.

In the thirteenth century Alexanders II and III were able to build on this development. Their policy of geographical unification of the kingdom, in particular their efforts to assimilate the western seaboard, when combined with the generally peaceful and prosperous aspect of the period in which they ruled, greatly enhanced the position of the monarchy in the realm. In a movement closely related to this strengthening of the monarchy, there was fostered a spirit of unity within the kingdom which may be seen as the development of a sense of nationhood.

Alexander III's reign especially saw this development. The beginning of the reign, marked by division and factionalism amongst



the nobility in a time of weakened monarchy, contrasts sharply with later events. Alexander's assumption of personal power showed a strong rejection of the interference of the English king in Scottish affairs, a rejection which was later emphasised by the refusal to render homage for the kingdom to Edward I in 1278. The peace and prosperity of the reign, coming as it did at the end of almost two centuries of an exceptional dynasty, saw even greater elevation of the place of the monarch in Scottish society.

The progress of the kingdom, and the increased notion of national unity which accompanied it, led to an association of the kingship with the kingdom, and gradually the kingship became a national monarchy of the type which was developing in most parts of Europe in this period. A threat to the kingship, or to its power or standing, became associated with a threat to the realm itself. This in turn gave rise to a unity of purpose amongst the community of Scots which is markedly demonstrated by the way in which the community established government after the unexpected demise of Alexander III in 1286. The strength created by the good rule of Alexanders II and III was too great to allow the community to accept subjection to another realm in the period after 1286.

If the kings of the thirteenth century, and particularly Alexander III, had brought about steady development, the rule of guardians, and the events which accompanied it, were to accelerate that progress. The desire of the guardians to safeguard the independence of the realm, and the concerted attack launched at that policy by Edward I, especially after the death of Margaret in 1290, greatly boosted the confidence of the governing community, and made

it increasingly aware of the part which it had to play in the government of the realm. The assumption by guardians of the complete royal administrative function brought about an exaltation of the community similar in character to the exaltation of the monarchy seen under the previous two kings.

The reign of King John caused difficulty because Balliol, as a vassal of Edward I, a status of which he and the community were constantly and unsubtly reminded, fitted the images neither of the monarchy nor of the nation which had been fostered in the previous half-century. Newly aware of its own power and rôle, the community attempted to dictate to the king, which resulted in a breakdown of the Scottish monarchical system, in further foreign intervention, the removal of the king, and the re-subjection of the realm.

Released from the arduous task of ruling the kingdom in opposition to the policies both of the community and of Edward I, King John became a much more effective figurehead, and in the periods of guardianship which followed, the idea of the exalted national monarchy was used by the governing community to produce an unprecedented unity of purpose in the kingdom, which sustained it in the face of tremendous political difficulty for little short of a decade. True, there was not complete unanimity in the community: certain individuals found themselves at various times on the English side of the struggle. However, they tended to have particular personal motives for their allegiance, and it is true to say that the period is characterised by a sharp distinction between England and Scotland which gives the war an overtly national flavour.



The inevitable weaknesses of guardianship, however, eventually left the Scots in a situation which, politically, was without a great deal of hope for the reconstitution of an effective monarchy. It was becoming increasingly apparent that although the guardians had all the theoretical implements with which to rule the land, and although they could at times conduct an effective war and administration, the success of their fight in the name of King John was dependent almost entirely on political events which had little or no direct connection with the Scottish situation, and over which the guardians could exercise no control.

Thus, when there seemed an opportunity, with Robert Bruce's usurpation of the kingdom in 1306, to replace fictional with actual monarchy, it seems that King John was quietly forgotten, and those of the community who had no personal or dynastic objection to Robert I, ranged themselves behind him. After an initial period of hardship, caused by military failure, the attempt by Bruce to rebuild the Scottish kingdom became spectacularly successful. Within a fairly short space of time he was able to win over, quell or exile the majority of those who opposed his rule in Scotland, and thereafter he was able to use the strong sense of 'community' which had developed during the periods of guardianship, to achieve once again the unity of purpose which had characterised the persistence of the earlier struggle.

Continuing and increasing military success, largely made possible by the internal turmoil which beset England under Edward II, enabled Robert I to make good his kingship, steadily to rebuild the realm's economy, and, within a decade of his assumption of power, to

re-assert the strength of the monarchy which had so aided Scotland's prosperity in the reign of Alexander III. Bruce, unlike Balliol, was able to wield his kingship, which was fully in the tradition of Scottish monarchy established in the thirteenth century, in tandem with the newly self-assertive community, to exalt further both kingship and community together. United perseverance by all sections of the realm thus created in Scotland an atmosphere in which political victory, given military success, was inevitable against divided and ill-organised opposition such as was to be found in England under Edward II.

Under Alexanders II and III, then, Scotland had started its development into a nation, largely prompted by a strong and exalted monarchy. The parallel exaltation of the community under the guardians was allied by Robert I with the tradition of strong monarchy, and under his rule both elements grew together to create a fully self-aware and assertive nation. Thus, whilst the latter years of Robert I's reign show unmistakable similarities with the reign of Alexander III, the conservatism of society being a powerful force, in the most fundamental way the fabric of Scottish society had changed. The king was no longer the one who ruled the community with a customary, but ill-defined, 'consent', dictated policy, and attempted to draw the realm's disparate elements together into a unified state. He had become a symbol of political identity, who actually shared the government of the kingdom with the community, thus creating in the realm a national unity of which he was the recognised figurehead. Throughout the period under discussion the monarchy was the



institution and idea which had become identified, and was eventually almost synonymous, with the royal dignity of the realm, and symbolised in every sense the 'nation of Scots'.

The self-awareness which is so crucial to the idea of nationhood was expressed in the symbols of royal authority and, above all, in the propaganda which was necessitated by the diplomatic warfare which raged from 1297 onwards. The magnificent seal of guardianship which was used from 1286 until 1291 is an extraordinary display of the contemporary attitude to the realm; the figure of St. Andrew with its accompanying legend, and the royal arms, confidently declare the nationhood of the Scottish community. But it is in the propaganda that the theoretical advances which were the consequences of accepted nationhood are most clearly stated. The Processus of Baldred Bisset, the Declaration of the Clergy of 1310, the 1321 negotiators' text, and others, all make their contribution, but it is in the Declaration of Arbroath that the association of the ideas of kingship and nationhood, the rôle of the community in government, the political and moral right to freedom, and the contract between king and community find most brilliant and succinct expression. The introversion of adversity brought about self-examination which led the Scots to discover and express how far they had travelled along the road of national development.

Between 1249 and 1329 strong royal rule and adversity and war had exalted both king and community. Robert I's unique achievement was to use and further that exaltation, and weld the two elements together, to complete the formation of the nation. The concept of

the Scottish monarchy, the royal dignity, the honour of the realm - the lion - was the key to the whole process. When there was no reigning king, the fictitious monarchy of John Balliol became the focal point of the community's policy and aspiration, and became, in every sense, the concept of the realm itself. After 1306, Bruce's attempt to resuscitate the realm was synonymous with his attempt to assert the kingship. Without a recognised, sovereign king, there could be no kingdom of Scots. His propaganda, like that in favour of Balliol, was thus framed in terminology which largely appeared to give support to a personal monarchy. But the Declaration of Arbroath went further: if one king refused to perform his duty to the realm, the community would cast him out and choose another. The man, although much eulogised, was not important. The crucial factor was his kingship, and the sovereignty and freedom which it implied. The Declaration of Arbroath makes the ultimate political rôle of the monarchy in Scotland clear: the monarchy was the kingdom. The community, even the nation, could exist without a king, but the political entity which was the 'kingdom of Scots' was entirely dependent on, and even synonymous with, the sovereign Scottish monarchy.

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APPENDIX 1THE CONNECTIONS WITH THE COMYNS OF BALLIOL'SAUDITORS IN THE GREAT CAUSE

This appendix details the relationships of many of the Balliol auditors in 1291 to the Comyn family, demonstrating the remarkable extent to which the Scottish support for Balliol must be regarded as a 'Comyn party'. The information is drawn principally from the Scots Peerage. It should be noted that a few of those mentioned in the list of the 'Durward party' of the 1250s (Stones, Documents, pp.[30-31] now appear in this list of Balliol's auditors. Of those men, Malise earl of Strathearn, Andrew Moray, Geoffrey de Mowbray and Nicholas Hay had all become allied to the Comyns through marriage (either of themselves or another member of their family) since the mid-thirteenth century. The only other names common to both lists are those of clerics, the abbots of Dunfermline, Kelso and Newbattle, none of which abbacies were held by the same incumbents in both 1255 and 1291. The names of Balliol's auditors are underlined.

William Fraser, bishop of St. Andrews.

Chancellor of Scotland under Alexander III and a guardian in the 1286-1291 government, which was accused of trying to put Balliol on the throne. There seems to have been some Comyn influence in St. Andrews, since in 1235 Gamelin, bishop-elect, was one of the Comyn party which was ousted from government. After Balliol's deposition, when Fraser died, William Comyn, provost of St. Andrews (a brother of

the earl of Buchan) was involved in a dispute over the election of Fraser's successor, William Lamberton, a supporter of Bruce. The family was also represented in Balliol's auditors by William Fraser's brothers, Simon and Andrew, and by one Richard Fraser. Simon Fraser was sheriff of Traquair/Peebles, and a justice in Tynedale, in both of which areas were important Comyn estates.

St. Andrews was also represented by its prior, John of Haddington.

Henry Cheyne, bishop of Aberdeen.

Boece claims that Henry Cheyne was the son of a sister of John Comyn of Badenoch, the claimant's father. There appears to be no evidence to corroborate this, but the staunch support which he gave to John Balliol until the bishop's surrender to Robert I (by 1312) makes it at least plausible that there was some bond of kinship between them. The family is also represented by Reginald Cheyne (jun.), who, in the 1260s, married Mary Moray (of the Duffus line), for which family see below.

William, bishop of Dunblane.

It is noteworthy that the patronage of the see of Dunblane lay with the family of Strathearn, which was closely related to the Comyns, and that Clement, the previous incumbent, had been removed from power with the Comyns in 1255. The see is also represented by the archdeacon of Dunblane.



John, abbot of Cambuskenneth.

Support for the Comyns from the abbacy of Cambuskenneth is to be expected, since earlier in the thirteenth century the abbey had been endowed with land by the earl of Buchan (a gift which was confirmed later in the century). In 1257 the sentence of excommunication which the Comyn party had issued against the Durwards was pronounced by the bishop of Dunblane in the abbey of Cambuskenneth.

Malise, earl of Strathearn.

Married a sister of John Comyn, earl of Buchan. The Strathearn family is also represented by Alpinus, who became King John's chamberlain and, later, bishop of Dunblane.

John Comyn, earl of Buchan.

Son of Alexander, earl of Buchan, the half-brother of the competitor's grandfather.

Gilbert d'Umphraville, earl of Angus.

Married a sister of John Comyn, earl of Buchan. The family is also represented by his kinsman, Ingram d'Umphraville.

William, earl of Ross.

Son of William, earl of Ross and Jean Comyn (daughter of William Comyn, later earl of Buchan, by his first wife). The relationship with the Comyns was re-affirmed later when, in 1309, he married Mary, the niece of John Comyn, earl of Buchan.

Alexander Macdougall, lord of Argyll.

Married to the third daughter of John Comyn of Badenoch.

Andrew Moray.

Married, firstly, the fourth daughter of John Comyn of Badenoch. His son was the Andrew Moray who led the 'army of Scotland' with William Wallace. Andrew (sen.) married, secondly, the widow of William Comyn of Kilbride. The family is also represented by William Moray of Tullibardine.

Geoffrey de Mowbray.

Married the second daughter of John Comyn of Badenoch.

Herbert Maxwell.

Son of one of the Comyn party dismissed in 1255.

David Graham.

One of the Comyn party dismissed in 1255. The family is also represented by Patrick Graham.

Nicholas Hay.

Son of Gilbert Hay and Idonea, daughter of William, earl of Buchan.

William Meldrum.

Relative (son?) of Philip Meldrum, who married Agnes, daughter of William Comyn, earl of Buchan.

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APPENDIX 2THE COMMENCEMENT OF A KING'S REIGN  
AND THE BEGINNING OF HIS REGNAL YEAR

Professor Duncan has stated that "it was not until 1272 in England and 1329 in Scotland that a reign was reckoned to begin before...the inauguration of the king".<sup>1</sup> He then goes on to explain the idea of 'interregnum' and the lapse of the king's peace between the death of one king and the inauguration of the next. Insofar as the importance of the inauguration ceremony is concerned, there can be no dispute. If it were otherwise, there could be no point in the hurried inaugurations of Alexander II and Alexander III. However, it does appear that, once the reign had started, it was then pre-dated to a date previous to the inauguration ceremony, normally to the death of the preceding king.

The regnal year of John Balliol was calculated not from his inauguration on 30 November 1292, but from a date between 8 and 21 November, presumably either from the award of the kingdom to him on 17 November, or his oath of fealty to Edward I on 20 November.<sup>2</sup> Margaret was never inaugurated, and so did not receive the dignity of the realm, and never had letters issued under her own name which bore any regnal year-date. Formally, her reign never began. The previous king, Alexander III, also dated his regnal year from the death of his father, rather than from his inauguration. Alexander II died on 8 July 1249, and his son was inaugurated on 13 July. On 1 July a.r.<sup>33</sup> (i.e. 1282) Alexander III sent a letter from Scone to Edward I,

excusing the absence of Alexander Comyn, earl of Buchan from the army summoned by Edward I for his Welsh expedition of that year. On 12 July a.r.<sup>34</sup>, Alexander issued an almost identical letter, dated at Kinross, on behalf of Alexander Balliol of Cavers.<sup>3</sup> These two letters must surely refer to the same English summons<sup>4</sup>, and date from the same year, 1282. This implies that the regnal year began between 1 and 11 July, probably on 8 July, the date of Alexander II's death.

There is not enough evidence to state with any certainty when the regnal years of earlier kings began. The inauguration of Alexander II took place on the day following William's death, and whilst it is usually assumed that the regnal year started on 5 December, there is no evidence on which to build a preference for this date as opposed to the previous day. If the regnal year began on 5 December, then the grant dated 4 December a.r.<sup>34</sup> at Edinburgh is to be dated 1248. By 13 January following he was apparently at Stirling, a perfectly feasible itinerary. That he was in Kinghorn by 1 February, however, might tend to indicate that he was travelling more than was normal for the time of year. Just as likely is that the grant dated 4 December a.r.<sup>34</sup> comes from the year 1247, the regnal year beginning on 4 December. Six days previous to that he was at Holyrood.<sup>5</sup>

The only king prior to 1329 whose regnal year it is certain started with the date of his inauguration is Robert I. In his case, it would be very surprising if any other date had been chosen. The previous king had not died, and, from the Scots' point of view, his reign had never formally ended. Until Bruce's inauguration, it was not common knowledge that he was to be made king. There was no other



date from which his regnal year could logically have been calculated. Bruce underwent two inauguration ceremonies, on 25 and 27 March. The latter ceremony, at which the countess of Buchan, as representative of the Macduff family, enthroned Bruce, was probably seen as being the more legal and effectual of the two ceremonies, and that is presumably why the regnal year starts on 27 March.<sup>6</sup>

Thus while the reign of a Scottish king was not reckoned to start until the inauguration, it was, in retrospect, dated back to the date of the previous king's death on at least one occasion, and perhaps on two. In Balliol's case it was pre-dated probably to the date on which it was recognised that he, rather than any other, had the right to succeed the most recently deceased monarch. The same was true of Bruce: his regnal year was dated from his recognition as the rightful king, although in his case that recognition came only with his self-arranged inauguration. In other words, the regnal year seems to have been dated from a probably fictitious, or purely nominal, 'pre-inaugural acclamation'.

The reason for this apparent contradiction in the calculation of when a king's reign began must lie in the interests of continuity. It has been explained above how the Scots believed that there was always a king who could, potentially, take up the rule of the kingdom. Usually when a king died it was fairly obvious who his successor would be. The royal dignity did not die with the king, and so it seemed fair to emphasise the continuous aspect of the kingship by dating the new reign from the time when it became clear who was next to receive that dignity. In this way, when the succession was assured, the royal dignity could never seem to lapse, even although there was in fact a short period of interregnum between the death of one king and the inauguration of the next.

However, the system broke down in 1286. When Alexander III died it was not certain who should succeed him. His widow Yolande, however, produced no child, and so Margaret was accepted as queen, and had she been able to undergo an inaugural ceremony, her reign would have started then, and her regnal year would probably have been dated to some point late in the year, when it had been recognised that Yolande would not bear another heir to Alexander III. However, it was realised that no inauguration could take place in the short term, and other guardians had therefore to be appointed to bear the royal dignity in the place of the rightful monarch. When Margaret died, however, the identity of the successor to the throne was even less certain. The guardians thus continued to rule in the name of the royal dignity until it was rendered up to Edward I. Edward's court decided on 17 November that Balliol was the rightful heir to the throne, and it is therefore probably to that day that his regnal year was dated, even although his reign did not actually start until his inauguration. Thereafter, whenever there was independent Scottish rule, it was carried on in the name of King John, until Bruce's rising of 1306.

The inauguration of Bruce in many ways pre-dated his actual assumption of the rule of the kingdom. His regnal year began on the date of his (second) inauguration, however, since that was the date on which his right to succeed the ineffectual King John had been recognised by at least a sizeable section of the community of the realm. However, the break in continuity was not something which the Scots wished to repeat. No matter how efficiently the guardians had governed, the lack of any ruling monarch was a threat to internal stability. Even given the strong theoretical basis of their



authority, the guardians had none of the prestige and charisma of a king, and their power was, in many ways, only as great as their army. The break in continuity, as the Scots had discovered at considerable cost, was also a serious threat in terms of international politics, and in theoretical terms concerning the realm's integrity and independence. Thus the system was changed. It was not possible completely to eradicate the possibility of a break in the succession, but in April 1315, December 1318 and again in July 1326, elaborate attempts were made to ensure that the choice of successor, when the time came, was as easy as possible. When Robert I died, the problems which might have arisen from any forced delay in the inauguration of his successor were averted by the acceptance of the fact that his reign did begin at the same time as his father's had ended. Thus it was not necessary for David II to be inaugurated until November 1331, more than two years after Robert I's death. David II's reign had started, and was recognised as having started, on 7 June 1329. He was able to issue royal documents under his own name using the full royal style between that date and his inauguration.<sup>7</sup> The problems caused by the interregnum between the death of one king and the assumption of the royal dignity by another were thus pre-empted by this alteration of the custom.

This part of the theory of Scottish monarchy, then, changed to suit practical necessity. The decision actually to give a king royal authority before his inauguration was made in order to give practical expression to the old idea, previously expressed through the more vague medium of pre-dating the regnal year, that there should be continuity in the monarchy. The political importance of that idea had been demonstrated by the drastic consequences of the old system's

failure to uphold it. Typically of the Scottish monarchy, the theory thus changed to accommodate the newly-found need, in order to avert the re-occurrence of a situation similar to that which had so nearly destroyed the kingdom.

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#### NOTES

- 1) Duncan, Scotland: The Making of the Kingdom, p.552.
- 2) See Handlist of the Acts of Alexander III, the Guardians and John, no.385. If the regnal year started on 30 November, then the Silksworth charter would be dated November 1296, after Balliol's abdication. Thus 21 November a.r.<sup>4</sup> must be in 1295, indicating that the regnal year changed between 8 and 21 November. The Scots are surely more likely to have chosen 17 November, since that date more truly reflected Balliol's acclamation as king. Also, 20 November would have represented a considerable coincidence, since that was the first day of Edward I's own regnal year.
- 3) Ibid., nos.137, 138.
- 4) Foedera I, p.608.
- 5) Handlist of the Acts of Alexander II (Regesta Regum Scottorum, 1959), nos.292, 293, 294, 288.
- 6) Duncan, Acta, especially nos.258, 282-83, 306-308. The place-dates of these acts make a regnal year beginning 25 March very unlikely.
- 7) Webster, B. (ed.), The Acts of David II (Regesta Regum Scotorum VI, Edinburgh 1982), Nos. 1-7.

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